

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20113032
Issue No.: 1022; 3014
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 22, 2010
Office: Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on November 22, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUES

1. Whether DHS properly reduced Claimant's Food Assistance Program (FAP) benefits effective 11/2010 based on a reduction in household members.
2. Whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits effective 11/2010 based on a reduction in household members.

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing FAP and FIP benefit recipient.
2. In 6/2010, Claimant and her daughter, [REDACTED], both reported to DHS that [REDACTED] was not living in Claimant's household.
3. On 6/30/10, DHS received a State of Michigan ID which indicated that [REDACTED] lived at a street address of [REDACTED] [REDACTED], at the time, a separate address from Claimant's reported address.

4. DHS issued FIP and FAP benefits to Claimant as if [REDACTED] lived in Claimant's household.
5. In 10/2010, DHS issued \$489 in FIP benefits to Claimant based on a household size of three persons; Claimant, [REDACTED] and Claimant's son.
6. In 10/2010 DHS issued \$524 in FAP benefits to Claimant based on a household size of three persons; Claimant, [REDACTED] and Claimant's son.
7. In 10/2010, [REDACTED] called DHS to remind DHS that she was no longer living with her mother.
8. On an unspecified date, DHS sent a notice to Claimant that her FAP benefits would be reduced to \$356 effective 11/2010 based on [REDACTED] not living with Claimant.
9. On an unspecified date, DHS sent a notice to Claimant that her FIP benefits would be terminated based on Claimant not having any minor children eligible for FIP benefits.
10. Claimant requested a hearing on 10/12/10 disputing the reduction of FIP and FAP benefits for 11/2010.
11. DHS concedes that Claimant's FIP benefits were wrongly terminated for 11/2010 and that Claimant is entitled to FIP benefits for 11/2010 based on a two-person group which includes Claimant and her son, but not [REDACTED].

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp Program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

FAP group composition is established by determining: who lives together, the relationship(s) of the people who live together, whether the people living together purchase and prepare food together or separately and whether the person(s) resides in an eligible living situation. BEM 212 at 1. The relationship of the people who live together affects whether they must be included or excluded from the group. *Id.* People who do not live together are never part of the same FAP benefits group.

Claimant concedes that the only change concerning Claimant's 11/2010 FAP benefits was removal of [REDACTED] from Claimant's FAP group. DHS contends that Claimant's child, [REDACTED], did not live with Claimant at the time [REDACTED] was removed from Claimant's FAP group beginning 11/2010. All of the evidence tends to support the DHS conclusion that [REDACTED] did not live with Claimant in 11/2010.

Claimant testified that [REDACTED] has always lived with her. Claimant did not provide any supporting evidence of this claim. DHS credibly testified that when Claimant was interviewed with her daughter in 6/2010, both Claimant and her daughter informed DHS that Claimant's daughter did not reside with Claimant. Claimant neither confirmed nor denied this testimony. DHS explained that [REDACTED] only continued to be part of Claimant's FIP and FAP benefits due to the DHS error. This testimony was very persuasive.

DHS also received a copy of [REDACTED] identification on 6/30/10 (Exhibit 2) which indicated a street address of [REDACTED], a separate address from Claimant. Claimant responded that the [REDACTED] address was also Claimant's former address and might be reflected as [REDACTED] address on her identification if she failed to update the identification. Claimant's response is a reasonable explanation as to why [REDACTED] identification would reflect a separate address from Claimant's current address.

DHS also testified that Claimant submitted an Assistance Application on 11/20/2010 and did not list [REDACTED] as a household member. Claimant did not refute this evidence but stated that she was told by a DHS worker to omit [REDACTED] from the application. Claimant's testimony was not credible concerning this issue. It is found that based on Claimant's and her daughter's own statements to DHS, that [REDACTED] was properly removed from Claimant's FAP benefit group effective 11/2010.

The undersigned has doubts as to where [REDACTED] actually resides. The undersigned has no doubts that DHS properly removed [REDACTED] from Claimant's FAP benefits based on Claimant's and her daughter's own statements that [REDACTED] does not reside with Claimant. It is found that DHS properly reduced Claimant's FAP benefits based on removing [REDACTED] from Claimant's FAP benefit group.

If [REDACTED] returns to Claimant's household, Claimant should report this information to DHS and DHS may adjust Claimant's benefits accordingly. This decision only affects whether DHS properly reduced Claimant's FAP benefits for 11/2010 and certainly does not prevent DHS from adding [REDACTED] onto Claimant's case in the future if DHS regulations so require.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

FIP group composition is the determination of which individuals living together are included in the FIP eligibility determination group (EDG) and the FIP certified group. BEM 210 at 1. To be eligible for FIP, a child must live with a legal parent, stepparent or other qualifying caretaker. *Id.* Like the FAP group composition policy, persons that do not live together are not in the same FIP benefits group.

It has already been found that based on Claimant's and Claimant's daughter's own reports to DHS [REDACTED] was not living with Claimant in 10/2010, the time DHS affected Claimant's FIP benefits. However, DHS only reduced Claimant's FAP benefits; DHS terminated Claimant's FIP benefits.

DHS concedes that they erred in terminating the FIP benefits on the basis that Claimant's does not have an eligible FIP group member. DHS stated that Claimant has a son who qualifies as a dependent child that is eligible to receive FIP benefits. DHS should have updated Claimant's FIP benefits from a three person group in 10/2010 (which included [REDACTED]) to a two person group in 11/2010 and issued FIP benefits accordingly. It is found that DHS erred by terminating Claimant's FIP benefits effective 11/2010 by neglecting to consider Claimant's FIP benefit eligibility based on her son, a dependent child that lives with Claimant.

DHS indicated that Claimant's FIP benefit reinstatement would be conditional upon Claimant's participation with employment-related activities. Though DHS may require Claimant's participation with such activities for future benefits (if DHS regulations allow it), Claimant's FIP benefit reinstatement may not be conditional upon such participation as Claimant would have received 11/2010 FIP benefit termination was the result of DHS error, not the result of Claimant's failure to participate with employment related activities.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly reduced Claimant's FAP benefits effective 11/2010 based on the reporting of Ashley as a non-household member. The actions taken by DHS are partially AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact, conclusions of law and by agreement of the parties, finds that DHS improperly terminated Claimant's FIP benefits effective 11/2010. It is ordered that DHS reinstate Claimant's FIP benefits effective 11/2010 based on a two-person FIP benefit group which includes Claimant and her son, but not Claimant's daughter, [REDACTED]. It is further ordered that reinstatement not be conditional upon Claimant's participation with employment-related activities though DHS may require Claimant's participation for future FIP benefits. The actions taken by DHS are partially REVERSED.


Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: December 2, 2010

Date Mailed: December 2, 2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

CG/hw

cc:

[REDACTED]