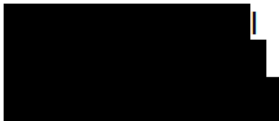


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Registration. 2011-39495

No:

Issue Nos: 1022; 1018;
2018; 3014

Case No:

Hearing Date: August 2, 2011
Washtenaw County DHS

Administrative Law Judge: Mark A. Meyer

HEARING DECISION

In accordance with MCL 400.9, MCL 400.37, and 1999 AC, R 400.903 a hearing was held in this matter on August 2, 2011. Claimant and her mother/representative appeared at hearing and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

ISSUE

The sole issue remaining in dispute was whether the Department properly began Claimant's Family Independence Program (FIP) cash assistance benefits on July 16, 2011, rather than on June 1, 2011.

FINDINGS OF FACT

Based on the competent, material, and substantial evidence on the whole record, the Administrative Law Judge finds as relevant fact:

1. Claimant submitted an application for Medical Assistance (MA), FIP, and Food Assistance Program benefits on May 16, 2011. (Department's hearing summary, dated June 21, 2011.)
2. On May 16, 2011, the Department issued a notice of case action against Claimant, informing her that her application for benefits was denied because: (1) her income exceeded the allowable limit for the FIP; (2) she received supplemental security income (SSI) and thus could not be counted in the MA group; and (3) she was not in cooperation with the Office of Child Support (OCS) as of the date of application. (Department's Exhibit D-2.)

3. Claimant subsequently filed a request for hearing to contest the Department's action. (Claimant's hearing request, dated June 6, 2011.)
4. On June 17, 2011, Claimant submitted a second application for benefits; this time she listed her two minor children, ages three and newborn. (Department's Exhibit D-5.)
5. In a notice of case action dated June 17, 2011, the Department informed Claimant that her application for FIP cash assistance benefits was denied because her income exceeded the allowable limit for the program. However, her request for MA for her newborn daughter was approved, effective July 1, 2011. And, Claimant's request for FAP benefits was also approved, effective June 17, 2011. (Department's Exhibit D-3.)
6. On July 12, 2011, the Department informed Claimant that she was approved for FIP cash assistance benefits, beginning July 16, 2011, for a group size of 2. (Department's Exhibit D-4.)
7. No further requests for hearing were forthcoming from Claimant.

CONCLUSIONS OF LAW

The hearing and appeals process for applicants and recipients of public assistance in Michigan is governed by 1999 AC, R 400.901 through 400.951, in accordance with federal law. An opportunity for hearing must be granted to an applicant who requests a hearing because his claim for assistance is denied or not acted on with reasonable promptness, and to any recipient who is aggrieved by Department action resulting in suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1). Indeed, an applicant or recipient holds the right to contest an agency decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department must provide an administrative hearing to review the decision and determine its appropriateness. Bridges Administrative Manual (BAM) 600, p. 1.

Here, after much discussion at hearing, it was determined that Claimant's sole dispute was whether the Department properly determined that she was eligible for FIP cash assistance, but only beginning on July 16, 2011. According to Claimant, she was entitled to such benefits for the entire months of June and July 2011.

The FIP was established under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 USC 601, *et seq.* The Department administers the FIP in accordance with MCL 400.10, *et seq.*, and Rules 400.3101 through 400.3131. The FIP replaced the Aid to Dependent Children (ADC) program, effective October 1, 1996. Agency policies pertaining to the FIP are found in the BAM, BEM, and (RFT). The program's purpose is to provide temporary cash assistance to support a family's movement to self-sufficiency. BEM 230A, p. 1.

A client must cooperate with the Department in determining initial and ongoing eligibility for assistance benefits. BAM 105, p. 5. Verification is defined as "documents or other evidence to establish the accuracy of the client's verbal or written statements." BAM 130, p. 1. Verification is usually required at application, redetermination, or for a reported change affecting eligibility or level of benefit. BAM 130, p. 1. The Department will instruct a client: (1) what verification is required; (2) how to obtain it, and (3) the due date for submission. BAM 130, p. 2. Verification requested by the Department must be obtained by the client, although assistance may be requested from the agency if needed. BAM 130, p. 3; see also BAM 105, p. 9. The client must take action within his or her ability to obtain verifications. BAM 105, p. 8.

Group composition is the determination of which individuals living together are included in the FIP eligibility determination group (EDG). To be eligible, a child must live with a legal parent, stepparent, or other qualifying caretaker. BEM 210, p. 1. The EDG is comprised of those individuals living together whose information is needed to determine FIP eligibility. BEM 210, p. 1. Living together is defined as sharing a home where family members usually sleep except for temporary absences. BEM 210, p. 2.

Here, Claimant provided sufficient documentation establishing that she moved out of her mother's home, and into her own apartment, on April 1, 2011. (See lease attached to Claimant's June 6, 2011, request for hearing.) However, based on the credible testimony of the Department's representative at hearing, there was a significant question whether Claimant's three-year old daughter Janiyah moved with her or remained a resident in the home of Claimant's mother. It was not until Claimant's June 17, 2011, application for MA, FIP, and FAP benefits that it reasonably appeared Janiyah was living with Claimant – along with Claimant's newborn daughter. In other words, sufficient evidence existed demonstrating that as of June 17, 2011, Claimant and her two minor daughters resided together in Claimant's apartment. Even the Department did not appear to dispute this finding.

The Department approved Claimant's application for FAP benefits, effective June 17, 2011 – the date of her second application. Her monthly benefit allotment was determined by the agency based on a group size of three – i.e., Claimant and her two minor children. So, at least as early as June 17, 2011, the Department considered Claimant and her two children to be living together, and Claimant to be in full cooperation with the OCS. (Cf. the agency's denial of Claimant's May 16, 2011, application for FAP benefits – Department's Exhibit D-2, p. 3.) The agency, however, did not begin Claimant's FIP cash assistance benefits until July 16, 2011. The agency provided no reasonable basis for not beginning Claimant's FIP cash assistance benefits on June 17, 2011, when the group size of two – comprised of her two minor daughters – appeared to be otherwise eligible for such benefits. The Department's reasons for previously denying Claimant's request for FIP benefits – i.e., her receipt of SSI and noncooperation with OCS – were obviously no longer viable; otherwise, Claimant would not have been approved for FAP benefits, effective June 17, 2011, or for FIP cash assistance, effective July 16, 2011.

As noted above, Claimant's only remaining issue in dispute in this matter was the effective date of her FIP cash assistance benefits.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge decides that the Department improperly established the effective date of Claimant's FIP cash assistance benefits as July 16, 3011. Therefore, the agency's action regarding this effective date is REVERSED. Unless otherwise ineligible, Claimant is entitled to FIP cash assistance benefits as determined, effective June 17, 2011.

It is SO ORDERED.

/s/ _____
Mark A. Meyer
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 8/16/11

Date Mailed: 8/16/11

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 90 days of the filing of the original request.

Claimant may appeal this decision and order to the circuit court for the county in which she resides within 30 days of the mailing of this decision and order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.