

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2011-438
Issue No: 1010
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 27, 2010
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on October 27, 2010. Claimant personally appeared and testified.

ISSUE

Did the department correctly determine that the claimant was not eligible for Family Independence Program (FIP) benefits for the months of June, July and August, 2010?

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 applied for FIP benefits in Washtenaw County because his two daughters came to live with him on June 20, 2010.

2. Claimant's children were however active on their mother's FIP case in Wayne County. Washtenaw County e-mailed Wayne County asking for the children to be removed from their mother's case, but this was not done until August, 2010.

3. Claimant was then approved for FIP benefits effective September 1, 2010, but requested a hearing asking for back payments in FIP and stating that the children's mother should be made to repay FIP benefits for the period of time the children had not been living with her.

CONCLUSIONS OF LAW

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 (DHS or department) 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 Program Reference Manual (RFT).

Department's policy addresses benefit duplication as receiving assistance from the same (or same type of program) to cover a person's needs for the same month. Benefit duplication is prohibited for FIP. BEM 222.

In claimant's case his two children were receiving FIP benefits on their mother's case in Wayne County. Children apparently came to live with the claimant at the end of June, 2010 and the mother's worker in Wayne County was notified of this event. Wayne County however did not remove the children immediately, but effective September 1, 2010, at which time claimant became eligible for FIP benefits for the children in his county of residence, Washtenaw. While

the claimant feels it is improper for the children's mother to have received FIP benefits for the children she did not have in her custody, departmental policy clearly prohibits benefit duplication. In addition, department's representative testified that she has new information that the children are now back living with their mother and that there is an October, 2010 court order giving the mother sole physical custody. Claimant does not dispute the content of the court order but states him and the mother share custody, he takes the children to school, etc. Claimant also states that the mother plans to move out of state and that he wishes to keep the children in Michigan. It appears that the physical custody of the children between the parties frequently fluctuates, and this fact puts the department in a difficult situation when deciding who has the children and who is entitled to benefits. Claimant indicates understanding of this situation. Claimant also understands that the court order giving custody to the mother is a document that the department would have to follow when determining who is entitled to FIP benefits for the children. Claimant states he will attempt to regain full custody of the children in the near future and to change the court order accordingly, at which time he may be eligible for FIP benefits again.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly determined that the claimant was not eligible for FIP benefits for the months of June, July and August, 2010.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 28, 2010

Date Mailed: October 29, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

IR/tg

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