

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-46506
Issue No.: 1022/2011
Case No.: [REDACTED]
Hearing Date: October 19, 2011
DHS County: Wayne (31)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; M SA 16.437 upon the claimant's request for a hearing. After due notice a telephone hearing was held from Detroit, Michigan on October 19, 2011. The claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (Department) properly deny the claimant's Family Independence Program (FIP), Food Assistance (FAP) and Medical Assistance (MA)?

FINDINGS OF FACT

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

1. On January 26, 2011, the claimant was awarded guardianship over [REDACTED]
2. On August 25, 2009, the claimant applied for FIP, and MA to including herself and [REDACTED]
3. The Department refused to grant benefits to the claimant even though the court had awarded her custody and guardianship because the [REDACTED] was included as a recipient on another case.
4. On January 31, 2011, the Department denied the claimant's MA and FIP application,

5. On March 8, 2011, the Claimant filed a request for a hearing.

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 (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 Bridges Reference Manual (BRM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

In the instant case the Department refused to include the child after the court had granted custody to the claimant because [REDACTED] was still listed on another case. The Department must honor the order of the court.

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. To be eligible for FIP, a child must live with a legal parent, stepparent or other qualifying caretaker. (BEM 210, p.1)

FIP Recipients

FIP recipients are automatically eligible for MA under this category starting the first day of the first month for which a FIP payment is made, including an early payment. (BEM 110, p.1)

DEPARTMENT POLICY

Bridges will assist you in determining who must be included in the Food Assistance Program (FAP) group prior to evaluating the nonfinancial and financial eligibility of everyone in the group.

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 (see Living Situations).

RELATIONSHIPS

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. First determine if they **must** be included in the group. If they are **not** mandatory group members, then determine if they purchase and prepare food together or separately.

Spouses

Spouses who are legally married and live together **must** be in the same group.

Parents and Children

Children include natural, step and adopted children.

Parents and their children **under 22 years of age** who live together **must** be in the same group regardless of whether the child has his/her own spouse or child who lives with the group.

For ongoing and intake applications where the child is not yet 22, they are potentially eligible for their own case, the month after turning 22.

Primary Caretaker

The **primary caretaker** is the person who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a calendar month, on average, in a twelve-month period.

Caretaker

A caretaker is a related or unrelated person who provides care or supervision to a child(ren) **under 18** who lives with the caretaker but who is **not** a natural, step or adopted child. This policy does **not** apply to foster children (see below). A person acting as a parent and the child(ren) for whom he

acts as a parent who live with him **must** be in the same group. (BEM 212, p.1).

In the instant case the Department was obligated to include the child when the court granted guardianship to the claimant and she actually began to live with the claimant.

The Department may move to recoup benefits paid to the child erroneously.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, **REVERSES AND ORDERS** the Department to reregister and process the January 29, 2011, application and replace any lost benefits in the claimant's FIP and MA.



Michael J. Bennane
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 1, 2011

Date Mailed: November 1, 2011

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

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Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative hearings
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

MJB/cl

cc:

