

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.: 20117968
Issue No.: 1022; 2000; 3014
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: February 3, 2011
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on February 3, 2011. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department of Human Services (Department).

ISSUE

Was the Department correct in not including [REDACTED] in Claimant's household on the date of Claimant's application?

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 has a child in her care, [REDACTED].
- (2) Claimant was appointed as full guardian for [REDACTED] on August 16, 2010.
- (3) Claimant applied for Food Assistance Program (FAP) benefits, Medical Assistance (MA) benefits, and Family Independence Program (FIP) benefits on August 19, 2010.
- (4) [REDACTED] was active on another DHS case.

- (5) Claimant provided documentation regarding her status as guardian for [REDACTED] on several occasions.
- (6) The Department failed to remove [REDACTED] from the other DHS case and add him to Claimant's case until October 31, 2010, with the effective date of December 1, 2010.
- (7) Claimant requested a hearing on November 19, 2010 protesting the Department's effective date of benefits.

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. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Food Assistance Program, formerly known as the Food Stamp ("FS") 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 administers the FAP program pursuant to MCL 400.10, *et seq.* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Program Reference Manual ("PRM").

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department 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 Program Reference Manual (PRM).

Department policy dictates how changes in primary caretaker of a child should be treated:

Re-evaluate primary caretaker status when any of the following occur:

- There is a change in the number of days per month the child sleeps in a caretaker's home.

- A second caretaker disputes the first caretaker's claim of the number of days the child sleeps in his/her home.

- A second caretaker applies for assistance for the same child.

Based on best available information/evidence, update the number of days per month the child sleeps in each caretaker's home on the child's Individual household status screen and run eligibility. BEM 210.

Department policy dictates how changes in primary caretaker should be processed:

Re-evaluate primary caretaker status when:

- A new or revised court order changing custody or visitation is provided.

- There is a change in the number of days the child sleeps in another caretaker's home and the change is expected to continue, on average, for the next twelve months.

- A second caretaker disputes the first caretaker's claim that the child(ren) sleeps in his/her home more than half the nights in a month, when averaged over the next 12 months.

- A second caretaker applies for assistance for the same child. BEM 212.

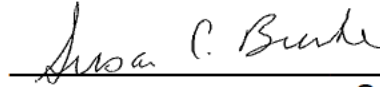
In the present case with regard to FAP and FIP benefits, the Department failed to follow policy and procedures in processing Claimant's submissions showing that [REDACTED] was in her legal care as of August 16, 2010. BEM 210, BEM 212. The Department failed to present adequate explanation for its failure to follow Department policy. [REDACTED] was in Claimant's care as the date of her application, August 19, 2010. Therefore, the Department was incorrect in not including [REDACTED] in the Claimant's household as of the date of application. With regard to MA benefits, Claimant testified that since [REDACTED] was sufficiently covered throughout the time period in question, she no longer requested a hearing on MA benefits.

DECISION AND ORDER

Based on the forgoing findings of fact and conclusions of law it is ORDERED that the Department's decision to not include Camryn E. Baker in Claimant's household as of the date of her application is REVERSED. It is also ORDERED that Claimant's FIP and FAP benefits shall be reprocessed as of the date of application, August 19, 2010, to include [REDACTED]. Any increase in benefit shall be paid to Claimant in the form

20117968/SCB

of a supplement. It is also ORDERED that the issue with respect to MA benefits is DISMISSED.



Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: February 16, 2011

Date Mailed: February 16, 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.

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