

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.: 20119552
Issue No.: 1022, 3014
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: January 12, 2011
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400. 9; MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on January 12, 2011. The Claimant appeared and testified.

[REDACTED], FIM and [REDACTED], FIS appeared on behalf of the Department.

ISSUE

Was the Department correct in not including Cawuan R. Burrell in Claimant's household?

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], that she has limited guardianship over.
- (2) [REDACTED] is active on another DHS case with his biological mother.

- (3) Claimant provided documentation regarding her status as guardian for [REDACTED] on several occasions.
- (4) The Department has failed to remove [REDACTED] from his biological mother's case and add him to Claimant's case.
- (5) Claimant requested a hearing on December 3, 2010 protesting the Department's failure to add [REDACTED] to her household.

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 Dependant 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 (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 of Human Services ("DHS"), formerly known as the Family Independence Agency, 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

20119552/AM

("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. • 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 dictate 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 Cawuan R. Burrell was in her care. BEM 210, BEM 212. The Department failed to present adequate

20119552/AM

explanation for their failure to follow Department policy. Therefore the Department was incorrect in the determination of Claimant's FIP and FAP benefits.

DECISION AND ORDER

Therefore based on the forgoing findings of fact and conclusions of law it is ORDERED that the Department decision to deny Claimant's FIP application for excess income is REVERSED. Claimant's FIP and FAP benefits shall be reprocessed going back to September 2010 to include Cawuan R. Burrell in Claimant's household. Any increase in benefit shall be paid to Claimant in the form of a supplement.



Aaron McClintic
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: February 9, 2011

Date Mailed: February 9, 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 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 of the rehearing decision.

AM/hw

cc: 

20119552/AM

