

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-27080
Issue Nos.: 1022, 3014
Case No.: [REDACTED]
Hearing Date: May 5, 2011
DHS County: Wayne (82-19)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on May 5, 2011. Claimant appeared and testified. [REDACTED] appeared and testified as a witness for Claimant. [REDACTED]

District, appeared and testified on behalf of the Department of Human Services (DHS). [REDACTED]

[REDACTED] District, was also present at the Administrative Hearing.

ISSUE

Whether DHS failed to add Claimant's nephew to her family group in September 2009, requiring DHS to pay supplemental Family Independence Program (FIP) and Food Assistance Program (FAP) benefits to Claimant?

FINDINGS OF FACT

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

1. On or about September 1, 2009, Claimant undertook the care and custody of her nephew, [REDACTED].
2. There is no evidence in the record to establish when, if ever, Claimant notified DHS of a change in her family group composition.

3. The DHS case file contains a notice of a hearing to be held in Wayne County Probate Court on [REDACTED] concerning the care and custody of [REDACTED].
4. On October 15, 2009, Wayne County Probate Court awarded Claimant legal guardianship of her nephew through the end of the 2009-10 school year.
5. On January 19, 2011, Claimant filed a Request for Hearing with DHS, asking for supplemental FIP and FAP benefits from September 1, 2009-May 31, 2010.

CONCLUSIONS OF LAW

FIP was established by the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601 *et seq.* DHS administers FIP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3101-400.3131. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables (RFT). These manuals are available online at www.michigan.gov.dhs/manuals.

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-400.3015. DHS' policies are found in BAM, BEM and RFT. *Id.*

The administrative manuals are the policies and procedures DHS officially created for its own use. While the DHS manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policy is, I will examine whether it was in fact followed in this case.

BAM Item 600, "Hearings," states that clients have the right to contest any DHS decision affecting eligibility or benefit levels whenever they believe the decision is illegal. DHS provides an Administrative Hearing to review the decision and determine if it is appropriate. DHS policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when DHS receives a hearing request and continue through the day of the hearing. BAM 600, p. 1.

I next turn to the case record to analyze the facts in relation to DHS policy. Claimant alleges that there was DHS error in that DHS failed to include Claimant's nephew in her FIP and FAP benefits. However, at the Administrative Hearing, DHS examined Claimant's file and could find no record that Claimant reported she had custody of her

nephew. The sole document regarding Claimant's nephew was a hearing notice. I do not find that a hearing notice is proof of custody, because it is merely a notice stating when a hearing will be held, and it says nothing about what happened at the hearing concerning custody of [REDACTED]. Also, I cannot tell from this notice when Claimant took custody of her nephew, i.e., whether it was before or after the hearing.

I have considered all of the testimony and evidence in this case as a whole, and I find and determine that Claimant has not proved by clear and convincing evidence that she gave notice to DHS that her family group changed in September 2009 or thereafter. Based on the record before me, I have only Claimant's word that she reported the change. Without more evidence, I decline to find that DHS error occurred.

In conclusion, based on the findings of fact and conclusions of law above, DHS is AFFIRMED. DHS need take no further action with regard to this case.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, AFFIRMS DHS in this case. DHS need take no further action in regard to this case.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 9, 2011

Date Mailed: May 10, 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.

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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.

JL/pf

cc:

