

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201262131
Issue No.: 1022, 3002
Case No.: [REDACTED]
Hearing Date: July 30, 2012
County: Wayne DHS (19)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on July 30, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, and [REDACTED], Specialist.

ISSUES

The first issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) benefit eligibility effective 5/2012 due to group composition related issues.

The second issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) benefit eligibility effective 4/2012.

FINDINGS OF FACT

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

1. Claimant was an ongoing FIP and FAP benefit recipient.
2. Claimant was a caretaker to her great grandchild and received FIP benefits as an ineligible grantee for her great-grandchild.
3. On an unspecified date prior to 4/10/12, Claimant reported that her great-grandchild's father (Claimant's grandson) moved in with her.

4. On 4/10/12, DHS terminated Claimant's FIP benefit eligibility, effective 5/2012, due to Claimant no longer being eligible to receive FIP benefits as an ineligible grantee.
5. Claimant was paying \$850/month in rent.
6. On 4/10/12, DHS determined Claimant's FAP benefit eligibility, in part, based on a rent obligation for Claimant of \$150/month.
7. On 6/29/12, Claimant requested a hearing to dispute the DHS actions of 4/10/12.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

DHS distinguishes between caretakers that are biological parents and caretakers that are not. Caretakers may be part of a FIP benefit group; if a caretaker is included as a member, the caretaker's income and assets are also factored. If the caretaker is not a mandatory group member, FIP benefits may be issued based solely on the child's eligibility; in such a case, the applying parent is referred to as an ineligible grantee. It was not disputed that Claimant was an ineligible caretaker to her great grandchild.

A legal parent or stepparent living with a dependent child is always the child's caretaker, unless the parent is a minor. BEM 210 at 5. A person other than a legal parent or stepparent may be a caretaker only when the dependent child has no legal parent or stepparent in the home. *Id.* When a court order has terminated parental rights, the parent and child are no longer legally related. *Id.*

On some unspecified date, Claimant allowed her grandson to live with her and her great-grandchild. Claimant's grandson was her great-grandchild's biological father. Based on DHS regulations, Claimant cannot be a caretaker to her great grandchild if the child's father is in the home and the father has not lost his parental rights. Claimant

agreed that her grandson did not lose his parental rights. There is no known legal basis to find that Claimant's grandson was not the legal father of his child if he had not lost his parental rights. Accordingly, it is found that DHS properly terminated Claimant's FIP benefit eligibility, effective 5/2012, because she lost her caretaker status to her great grandchild.

Claimant also raised a FAP benefit eligibility issue. DHS increased Claimant's FAP benefit eligibility effective 4/2012 to \$339/month following the arrival of her grandson and great-grandchild. Claimant contended that the increase was insufficient based on a comparison of the amount of FAP issued to her as a single household member and the increase following the arrival of two persons. The basis for Claimant's contention was flawed as FAP benefits are not calculated based on previous issuances. All FAP benefit factors were considered during the hearing and the only dispute between numbers used by DHS and Claimant concerned Claimant's rent obligation.

DHS budgeted \$150/month as Claimant's rent obligation. DHS was unable to present a case file or any evidence justifying why \$150/month was determined to be Claimant's rent obligation. Claimant contended that she has paid \$850/month in rent since 2009. Claimant presented a rent receipt to support her contention. Based on the presented evidence, it is found that DHS erred in budgeting Claimant's rent obligation. Accordingly, the DHS FAP determination since 4/2012 is found to be incorrect based on an incorrect rent amount.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FIP benefit eligibility effective 5/2012 due to Claimant's loss of her status as a caretaker to her great grandchild. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's eligibility for FAP benefits effective 4/2012. It is ordered that DHS:

- (1) redetermine Claimant's FAP benefit eligibility, effective 4/2012, subject to the finding that Claimant paid \$850/month in rent; and
- (2) supplement Claimant for any FAP benefits not received as a result of the DHS error.

The actions taken by DHS are REVERSED.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 31, 2012

Date Mailed: July 31, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

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 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.

Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

