

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201339901
Issue No.: 1022, 2015, 3014, 5012
Case No.: [REDACTED]
Hearing Date: July 1, 2013
County: Wayne DHS (49)

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 June 26, 2013, from Detroit, Michigan. Participants included the above-named claimant. [REDACTED] testified on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The first issue is whether DHS properly excluded minor children that did not live with Claimant in a Food Assistance Program (FAP) benefit determination.

The second issue is whether DHS properly denied Family Independence Program (FIP) benefits to Claimant, due to Claimant failing to meet the group composition requirements.

The third issue is whether DHS properly denied Medical Assistance (MA) benefits to Claimant's children when the children did not live with Claimant.

The fourth issue is whether DHS properly denied State Emergency Relief (SER) for assistance with moving, due to Claimant's inability to afford the proposed rental property rent.

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 FAP benefit recipient.
2. On an unspecified date, after 12/2011, Claimant applied for FIP benefits and MA benefits for her minor children.
3. On an unspecified date, from around 12/2011, Claimant submitted a Change Report to DHS alleging that her three minor children lived with her and not the children's father.
4. Claimant was part of a household that did not include any minor child.
5. On 7/9/12, Claimant applied for SER for assistance with relocation to a residence with a rent of \$485, where cooking gas and heat were not included in the rent.
6. As of 7/9/12, Claimant received FIP income but should not have because she was not a caretaker to minor children.
7. On an unspecified date, DHS denied Claimant's SER application because Claimant could not afford the relocated residence.
8. On an unspecified date, DHS took an adverse action against Claimant's FAP benefit eligibility, effective 9/2012, based on a determination that Claimant was not the primary caretaker of any minor children.
9. On unspecified date, DHS denied Claimant's FIP and MA benefit application.
10. On 9/27/12, Claimant requested a hearing to dispute a FAP benefit determination, effective 9/2012, and an SER denial.
11. On 4/5/13, Claimant requested a hearing alleging that she has custody of children in 2003, an SER denial, a FIP benefit termination and MA termination.

CONCLUSIONS OF LAW

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 regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant submitted multiple Requests for Hearing concerning a litany of reasons. This decision will address the issues appropriate for administrative review.

Claimant's hearing request dated 9/27/12 alleged that DHS took an adverse action on Claimant's FAP eligibility by excluding minor children from the group composition. Claimant testified that she was the children's primary caretaker. DHS responded that Claimant was not.

When a child spends time with multiple caretakers who do not live together such as joint physical custody, parent/grandparent, etc., determine a primary caretaker. BEM 212 (4/2012), p 3. Only one person can be the primary caretaker and the other caretaker(s) is considered the absent caretaker(s). *Id.* The child is always in the FAP group of the primary caretaker. *Id.* DHS is to determine primary caretaker by using a twelve-month period. *Id.* DHS is to re-evaluate primary caretaker status when a second caretaker disputes the first caretaker's claim that the child(ren) sleeps in their home more than half the nights in a month, when averaged over the next 12 months. *Id.*, p. 4.

It was not disputed that Claimant submitted a Change Report (Exhibits 1-2) to DHS. Typically a Change Report is signed by clients and submitted by clients when changes occur. The Change Report on which Claimant relies was allegedly signed by Claimant's children's father. Claimant contended that the Change Report was a concession by the children's father that Claimant was the caretaker to Claimant's three minor children. Claimant further contended that the Change Report was definitive evidence of her primary caretaker status.

DHS provided testimony that Claimant's children's father presented a 2008 dated court order establishing custody of the three minor children. Claimant conceded the court order awarded custody of the children to the father concerning "home". DHS also presented testimony that Claimant's children's father was contacted after the Change Report was submitted and the father alleged that his name was forged on the Change Report submitted by Claimant.

Claimant alleged that written denials of benefits from DHS prove her custody because her children's names are on the denials. What Claimant cites as proof of her children's residency is no proof at all.

Claimant testified that she would have no reason to lie about forging her children's father's name on the Change Report. The primary caretaker of the children would be potentially eligible for cash, food, emergency, day care and other benefits that the non-caretaker would not be eligible for. Claimant would have a significant motive to forge her children's father name on a Change Report.

It cannot be known with absolute certainty whether Claimant forged her children's father's name on a Change Report. It can be established that Claimant is not, and has not been the primary caretaker to her children. Claimant's daughter testified that Claimant's children lived with their father since at least 9/2012. Claimant testified that her children are living in an "unsuitable situation", presumably, Claimant meant the situation living with her children's father. Further, the only court document verified children's father's custody. Based on the overwhelming evidence, it is found that DHS

properly found that Claimant's children have not lived with Claimant since at least 12/2011.

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 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. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant also disputed an unspecified DHS decision denying and/or terminating MA benefits to her children. Only persons living with one another can be in the same MA benefit group. BEM 211 (11/2011), p. 1.

It was determined above that Claimant was not living with her minor children at a time when Claimant wanted MA eligibility for her children. Because Claimant was not living with her children, her children were not eligible for MA benefits, at least not based on an application from Claimant.

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. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant also alleged that DHS improperly denied FIP applications. Presumably, the applications were denied based on a lack of minor children in the household.

To be eligible for FIP benefits, the group must include a dependent child who lives with a legal parent, stepparent or other qualifying caretaker. BEM 210 (1/2013), p. 1. Groups with no eligible child may consist of a pregnant woman. *Id.*, p. 10.

Again, it was determined that Claimant was not the caretaker to minor children. Thus, Claimant was not eligible for FIP benefits. Accordingly, any FIP applications were properly denied by DHS.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. DHS (formerly known as the Family Independence Agency) policies are found in the Emergency Relief Manual (ERM).

It was not disputed that Claimant applied for SER on 7/9/12. It was not disputed that the denial was based on Claimant's inability to afford rent.

DHS specialists are directed to authorize SER for relocation services only if the SER group has sufficient income to meet ongoing housing expenses. ERM 207 (4/2011), p. 1. An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized. *Id.* The total housing obligation cannot exceed 75% of the group's total net countable income. *Id.* ERM 207 provides instruction on how to calculate housing affordability; the applicable policy states:

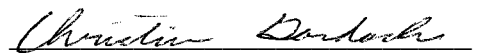
Multiply the group's total net countable income by 75%. The result is the maximum "total housing obligation" the group can have, based on their income, and be eligible for SER housing services; and refer to the table at the end of this item for any increases in the basic 75% test if the group is renting and heat, electric or water/ cooking gas is included in the rent. Multiply the resulting percentage by the group's total net countable income. The result is the absolute "total housing obligation" the group can have and be eligible for SER housing services.

There was a dispute concerning Claimant's income at the time of her SER application. Claimant claimed she received \$598 in FIP benefits. DHS contended that Claimant received \$499 in FIP benefits. It is known that Claimant's proper income was \$0 in FIP benefits, because Claimant was not a caretaker to her children. For purposes of this decision, \$0 will be accepted as the proper amount of Claimant's income.

Water and electricity were included in Claimant's rent creating a 5% increase in the 75% standard. Multiplying Claimant's \$0/month income by 85% creates a maximum housing obligation of \$0. Claimant sought assistance for a rent of \$485. Thus, Claimant's rent exceeded Claimant's countable income concerning housing affordability. Accordingly, Claimant's SER was properly denied.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied FIP, MA and SER benefits to Claimant and took a proper adverse action to Claimant's FAP eligibility. The actions taken by DHS are AFFIRMED.


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

Date Signed: 7/5/2013

Date Mailed: 7/5/2013

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

CG/hw

cc:

