

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201312741
Issue No: 1022, 3015
Case No: [REDACTED]
Hearing Date: December 20, 2012
Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on December 20, 2012. The claimant personally appeared and provided testimony.

ISSUES

1. Whether the department properly determined the claimant's Food Assistance Program (FAP) group composition and in turn closed the claimant's case for excess income?
2. Whether the department properly determined the claimant's group composition for the Family Independence Program (FIP) and in turn closed the claimant's FIP case for not being categorically eligible?

FINDINGS OF FACT

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

1. The claimant was a recipient of FAP and FIP benefits.
2. On October 5, 2012, the department conducted a review of the claimant's case wherein the claimant informed the department that she had moved to [REDACTED]
3. The claimant has guardianship of three of her sister's children.
4. The children over whom the claimant has guardianship were included in the claimant's FIP and FAP groups.

5. The claimant's sister (and biological mother of the three children) had reported to the department that her address is [REDACTED]
6. The department's information indicated that there had been no termination of parental rights of the claimant's sister's parental rights to the three children.
7. Because the department's information indicated that the claimant and her sister lived at the same address and that there had been no termination of the parental rights of the claimant's sister, the department determined that the three children were required to be placed on their mother's case for FIP and FAP purposes, and in turn, removed from the claimant's case.
8. The department removed the children from the claimant's FIP and FAP cases.
9. The department then determined that the claimant was not categorically eligible for FIP and that she was over the allowable income limit for FAP.
10. On October 5, 2012, the department sent the claimant a notice of case action (DHS 1605) stating that her FIP and FAP cases were closing effective November 1, 2012.
11. On November 13, 2012, the claimant filed a request for hearing protesting the closure of her FIP and FAP cases.

CONCLUSIONS OF LAW

As a preliminary matter, the claimant's hearing request also pertained to the closure of her Medical Assistance (MA) benefits. However, prior to the closure of the hearing record, the claimant testified that she did not wish to proceed with the portion of the hearing pertaining to her MA benefits. Therefore, the portion of the claimant's hearing request pertaining to her MA benefits is **HEREBY DISMISSED**.

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1)

Clients have the right to contest a department decision affective eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Regarding FAP, policy states that a person cannot be a member of more than one certified group in any month. BEM 222. In order to determine who is included in the certified group, the department examines the relationship between individuals, where individuals live, and who purchases and prepares meals together. Policy states as follows:

FAP group composition is established by determining:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately, and
4. Whether the person(s) resides in an eligible living situation (see Living Situations).

RELATIONSHIPS

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. First determine if they **must** be included in the group. If they are **not** mandatory group members, then determine if they purchase and prepare food together or separately.

Parents and Children

Children include natural, step and adopted children. Parents and their children **under** 22 years of age who live together **must** be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM 212.

For FIP purposes, in order for an individual to be eligible for FIP benefits, there must be a dependent child who lives with a legal parent, step-parent, or other qualifying caretaker. BEM 210. In determining who must be in the FIP group and who may be the primary caretaker of the child, policy states as follows:

Mandatory FIP EDG Members

When cash assistance is requested for a dependent child, or a dependent child is a mandatory FIP EDG member, all of the following individuals who live together are in the FIP EDG:

- Dependent Child.
- Child's legal parent(s).
- Child's legal siblings who meet the definition of a dependent child (siblings have at least one legal parent in common).
- Legal parent(s) of the child's siblings.
- Child's legal stepparent, even after death of or divorce from the parent.
- Child's legal stepsiblings who meet the definition of a dependent child, even after death of or divorce from the parent.
- Child's child.

Who May be a FIP Caretaker?

A legal parent or stepparent living with a dependent child is always the child's caretaker, unless the parent is a minor. See [Multi-Generation and Combined Groups](#) in this item for exceptions regarding minor parents. 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. BEM 210.

In the case at hand, the claimant is disputing the removal of the children from her case and the resultant closure of her FIP and FAP cases. The claimant testified that although the children's mother listed the address she lives at as her address, she actually does not live there. The department's information showed that the children's mother lived at the same address as the children, and that her parental rights had not been terminated. Therefore, the department determined that the children were required to be included on their mother's FAP case and that as the children would be required to be in a FIP group with their mother that their mother would have to apply for FIP benefits for the children. The claimant testified that she is the primary caretaker of the children and that their mother does not have the responsibility of caring for them.

The information the department had at the time showed that the parental rights of the children's mother had not been terminated and therefore, she is still the legal parent of the children (see Department Exhibits 12-14). Additionally, the department had a shelter verification form August 10, 2012, stating that the children's mother lived at the

address of the claimant (see Department Exhibits 24-25). Therefore, if the children are living in the same house with their legal parent, they must be included on her case for both FAP and FIP as per the above-mentioned policy. The department therefore removed the children from the claimant's FAP and FIP cases. The removal resulted in the claimant not being categorically eligible for FIP as she was no longer considered the care-taker of a minor child and as the claimant's FAP group was reduced, she was found to have excess income for FAP eligibility. This Administrative Law Judge finds the claimant's testimony to be credible regarding her status as the care taker of the children. However, the department's information available at the time showed that the parental rights of the children's mother had not been terminated; therefore she is still the children's legal parent. Additionally, although the claimant testified that the children's mother does not actually live at the address listed; the information the department had at the time showed that the mother did live at said address. Therefore, this Administrative Law Judge finds that, based on the information available at the time, the department acted properly in accordance with policy in removing the children from the claimant's FAP and FIP cases and in turn closing each.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did properly close the claimant's FAP and FIP cases.

Accordingly, the department's actions are **AFFIRMED**.

It is SO ORDERED.

/s/ _____
Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 14, 2013

Date Mailed: January 15, 2013

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.

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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.

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