

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2009-22316
Issue No: 3002; 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 17, 2009
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on June 17, 2009. The claimant personally appeared and testified.

ISSUE

Did the department properly budget the claimant's Food Assistance Program (FAP) case beginning in June, 2009?

FINDINGS OF FACT

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

1. On April 30, 2009, the department received a copy of a "Notice of Rent Adjustment" from the Battle Creek Housing Commission showing the claimant's rent had been raised to \$238.00 because she had gotten married and her husband and his income had been added to her case. (Department Exhibit 1).

2. The department completed a new budget for the claimant, effective June, 2009, to add the claimant's husband and to budget the higher rent expense. This brought the claimant's monthly FAP benefit to \$293.00. (Department Exhibit 6)

3. The claimant was mailed a Notice of Case Action (DHS-1605) on May 9, 2009, informing her of these actions.

4. The claimant submitted a hearing request on April 30, 2009, indicating that she wanted a FAP review because her rent had gone up.

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 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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department policy states:

FOOD ASSISTANCE PROGRAM GROUP COMPOSITION

DEPARTMENT POLICY

You must determine who is included in the Food Assistance Program (FAP) group prior to evaluating the nonfinancial and financial eligibility of everyone in the group.

To establish FAP group composition determine:

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” in this item.)

PEM, Item 212, p. 1.

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. PEM, Item 212, p. 1.

Spouses

Spouses who are legally married and live together **must** be in the same group. PEM, Item 212, p. 1.

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 has his/her own spouse or child who lives with the group. PEM, Item 212, p. 1.

Primary Caretaker

The **Primary Caretaker** is the person who is primarily responsible for the child’s day-to-day care and supervision in the home where the child sleeps more than half of the days in a calendar month, on average, in a twelve-month period. PEM, Item 212, p. 1.

Responsibility to Report Changes

All Programs

This section applies to all groups **except** most FAP groups with earnings.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported **within 10 days**:

- . after the client is aware of them, or
- . the start date of employment. PAM, Item 105, p. 7.

See PAM 220 for processing reported changes.

Other reporting requirements include, but are **not** limited to, changes in:

- . Persons in the home
- . Marital status
- . Address and shelter cost changes that result from the move
- . Vehicles
- . Assets
- . Child support expenses paid
- . Health or hospital coverage and premiums
- . Day care needs or providers. PAM, Item 105, pp. 7-8.

MEMBER ADDS/DELETES

A **member add** that increases benefits is effective the month **after** it is reported **or**, if the new member left another group, the month after the member delete. In determining the potential FAP benefit increase, assume the FIP/SDA supplement and new grant amount have been authorized.

When a member leaves a group to apply on his own or to join another group, do a **member delete** in the month you learn of the application/ member add. If the member delete decreases benefits, use **adequate notice** for the negative action. PEM, Item 550, p.3.

Verification

You **must** verify the responsibility to pay and the amount of certain expenses. See the individual expense policy for verification requirements. Document verification in the case record.

Do **not** budget expenses that require verification until the verification is provided. Determine eligibility and the benefit level without an expense requiring verification if it cannot be verified.

Example: Do **not** include a medical expense that might be covered by a reimbursement if the amount of the reimbursement cannot be verified.

Treat subsequently provided verification to an eligible FAP group as a change. Issue a supplement for lost benefits **only** if:

- . the expense could **not** be verified within 30 days of the application, and
- . the local office was at fault. PEM, Item 554, p. 2.

The claimant's hearing request indicates that she wants a review of her FAP case to reflect her higher rent expense. The claimant reported this rent expense by sending the department a letter from the Battle Creek Housing Commission. The department received this letter on April 30, 2009. Department policy indicates that for FAP, a department worker must act on a change reported by means such as this within 10 days after becoming aware of the change. PAM 220. This means that the department had to enter the change reported by the claimant by May 10, 2009. The Notice of Case Action was dated May 9, 2009, within the department standard of promptness. When the change is entered into the computer system in May, 2009, the change will correctly take effect beginning June, 2009.

While the claimant's hearing request only mentioned the rent expense, she brought up in the hearing that she was never living with her husband and didn't want him on her FAP case. Department policy indicates that spouses who are legally married and living together **MUST** be in the same group. PEM 212. In this case, the claimant testified that she and her husband never resided together. However, the evidence does not support the claimant's contention. The Battle Creek Housing Commission added the claimant's husband to the rent contract. It would be unlikely that the Housing Commission would have known to add the claimant's husband, unless she had reported that she had married and was living with him.

Further, the claimant submitted a Personal Protection Order (PPO) to support that she doesn't live with her husband. However, the PPO lists both Ms. [REDACTED] and her husband, [REDACTED] as residing at the [REDACTED] address. Even more, in the Verified Statement for

PPO, which is a sworn court document, the claimant indicated that she “came home from running errands at around 2:30 p.m. and [REDACTED] (her husband) came home around 5:00”. This clearly indicates that the claimant and her husband were living together. It is noted that department policy requires the claimant to report any changes which would affect eligibility or benefit level, which would include marriage and other persons in the home. PAM 105. The claimant apparently failed to inform DHS of these changes.

Therefore, when DHS received the information concerning the higher rent expense and the information showing that the claimant was married, they correctly budgeted the claimant’s case to reflect the higher rent expense and the addition of the claimant’s husband, including his income.

If the claimant’s circumstances have changed and the claimant’s husband is no longer living in the residence, the claimant must report this and provide any verification necessary to allow the department to act on the changes.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly budgeted the claimant's FAP case beginning in June, 2009 to include the new rent expense and the addition of her husband. Thus, the department's actions are UPHELD. SO ORDERED.

/s/

Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 9, 2009

Date Mailed: July 10, 2009

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 date of the rehearing decision.

SLK [REDACTED]

cc: [REDACTED]