

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: 2009-23363

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 24, 2009

Ionia 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 24, 2009. The claimant personally appeared and provided testimony, along with his ex-wife, [REDACTED]

ISSUE

Did the department properly terminate the claimant's Food Assistance Program (FAP) benefits for failure to provide verification in May, 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. The claimant was a FAP recipient when he reported that he had been evicted from his house and was now residing with his ex-wife, son and the daughter of his ex-wife.

(Department Exhibit 1, 2).

2. On April 22, 2009, the department mailed the claimant (at the new address) a Verification Checklist (DHS-3503) requiring the claimant complete a Change Report (DHS-2240) and a Verification of Employment (DHS-38) for [REDACTED]. This documentation was due back to the department by May 4, 2009. (Department Exhibit 7, 8).

3. The required verifications were not returned to the department and on May 5, 2009, the department mailed the claimant a Notice of Case Action (DHS-1605), which indicated the claimant's FAP case was closing due to the failure to provide verifications. (Department Exhibit 11 – 14).

4. The claimant's ex-wife submitted a letter to the department indicating that she refused to provide her personal information because she and the claimant were divorced and she didn't want her personal information released. (Department Exhibit 15).

5. The claimant submitted a hearing request on May 14, 2009.

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.

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. PAM, Item 105, p. 5.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. PAM, Item 130, p. 4.

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed and the client has not made a reasonable effort to provide it. PAM, Item 130, p. 4.

In this case, the claimant had his FAP benefits terminated due to his failure to provide the verification of employment information for his ex-wife. The claimant's ex-wife testified that the failure to provide the verifications was her fault because she did not want to release any of her personal information as she was divorced from the claimant.

The claimant and his ex-wife testified that the claimant was evicted from his residence and had no place to live. The claimant's ex-wife testified that she and the claimant have a son together, and that she allowed the claimant to move into her residence.

Department policy mandates that certain individuals **MUST** be included in the same FAP group. Policy details that parents and their children under 22 years of age who live together **must** be in the same group. PEM 212.

Thus, the department had to include the claimant's son in his FAP group as he is the claimant's child. Then the claimant's ex-wife would have to be included in the FAP group because she is the mother of the child in common. Thus, the department properly requested information to determine the eligibility of the group and its members.

The verifications were due back to the department by May 5, 2009. Department policy indicates that a client must provide information and documents to allow the department to determine initial and ongoing eligibility. PAM 105. Department policy also states that a refusal or failure to provide the necessary information will result in penalties to the case. PAM 105. In this case, the claimant's ex-wife wrote a letter indicating her refusal to provide the necessary information to the department to allow them to determine the eligibility or benefit levels for the group. Thus, the department properly closed the claimant's FAP case for refusal to provide the necessary documentation.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly terminated the claimant's FAP benefits due to a failure to provide verifications.

Accordingly, 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 14, 2009

Date Mailed: July 15, 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]