

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████,

Claimant

Reg. No.: 2009-26301

Issue No.: 1022, 3014

Case No.: ██████████

Load No.: ██████████

Hearing Date:

August 24, 2009

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

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 hearing was held on August 24, 2009. The claimant appeared and testified with the assistance of a translator from the

██████████.

ISSUE

Did claimant withdraw her request for benefits for her 7 yr old sister and for Food Assistance Program (FAP) benefits for the entire group?

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 February 25, 2009, claimant filed an application for cash, FAP, and Medical Assistance (MA) for herself, her 19 yr old twin brother, her 7 yr old sister, and her 85 yr old grandmother.

- 2) Thereafter, the department asked everyone in the household to come into the office for an interview.
- 3) At an in-person interview in the department's office on March 19, 2009, the department learned that the children's mother also lived in the family home. She was added to the group.
- 4) The department was informed that everyone in the household purchased and prepared food together. (Department exhibit #5, page 1.)
- 5) At the meeting on March 19, 2009, the department learned that the father/husband of the group had lived in the family home with the family but, at the time of the meeting, was working in Turkey.
- 6) When on March 19, 2009, the group was informed by the department of the obligation to cooperate with child support efforts directed at their husband/father, the group decided to withdraw its request for benefits for the 7 yr old child and indicated an understanding that, by removing the 7 yr old from the group, no one in the group would qualify for FAP benefits.
- 7) Thereafter, the department opened Refugee Assistance Program (RAP) and MA benefits for the 19 yr old twins and also opened Supplemental Security Income (SSI) cash benefits and MA for the grandmother.
- 8) On April 2, 2009, the department notified claimant that her February 25, 2009 application for Family Independence Program (FIP) had been denied because the request for FIP had been withdrawn and that the application for FAP was denied because "the request withdrawn, due to child support requirement." (Department exhibit #4.)

- 9) On June 5, 2009, claimant filed a hearing request to protest the department's failure to provide FAP to the group and failure to provide medical and cash to the 7 yr old.

CONCLUSIONS OF LAW

The Refugee Assistance Program (RAP) is a federal program which helps refugees to become self-sufficiency after their arrival in the US. RAP has two components: Refugee Assistance Program Cash (RAPC) and Refugee Assistance Program Medical (RAPM). The RAPC is a cash program for refugees who are not eligible for the Family Independence Program (FIP). RAPM is a medical program for refugees who are not eligible for Medicaid (MA). When the term RAP is used in policy, it refers to both RAPC and RAPM. PEM Item 630, Page 1.

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

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).

Policy in this matter prescribes as follows:

Determine eligibility for FIP and MA before determining eligibility for RAP Cash Assistance and/or Medical Aid. PEM Item 630, Page 3.

FIP Group Composition

When cash assistance is requested for a dependent child, all of the following who live together must be in the program group:

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

PEM Item 210, Page 3

Food Assistance Program Group Composition

Children include natural, step and adopted children.

Parents and their children under 22 yrs 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, Page 1.

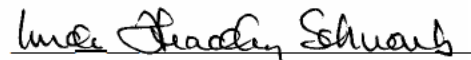
In this case, when informed of the requirement to cooperate with child support efforts directed at the groups father/husband, the group indicated a desire to withdraw their request for benefits for the 7 yr old and indicated an understanding that, in doing so, the group would lose eligibility for FAP benefits. The department followed the group's wishes and did not provide benefits to the 7 yr old. The department correctly conveyed to the group that a group cannot receive FAP benefits while excluding a mandatory group member. The 7 yr old was a mandatory group member for purposes of FAP eligibility. See PEM Item 212, Page 1. The group indicated its wish to withdraw its request for FAP benefits. The department honored the group's request.

Accordingly, it must be found that the department followed policy in this matter. If claimant and/or her group members have changed their mind, they are encouraged to reapply for program benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant withdrew her request for benefits for her 7 yr old sister and for Food Assistance Program benefits for her entire group.

Accordingly, the department's action in this matter must be AFFIRMED.


Linda Steadley Schwarz
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/10/09

Date Mailed: 11/17/09

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

LSS/dj

cc: 