

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: 2009-6136

Issue No: 3014

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 18, 2009

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 March 18, 2009.

ISSUE

Was the department's decision to cut off the claimant's FAP allotment for a failure to determine group composition correct?

FINDINGS OF FACT

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

(1) Claimant was receiving Food Assistance Program (FAP) allotment benefits for herself and her children.

(2) On 10-17-08, the OIG began a second investigation into claimant's file to determine if claimant's husband was no longer a member of claimant's recipient group, as claimant had claimed upon her DHS-1171, Assistance Application.

(3) On 11-5-08, OIG Agent James Kropinski made a visit to claimant's home.

(4) Agent Kropinski noted that a truck belonging to claimant's husband was sitting in the driveway.

(5) Agent Kropinski further noted that claimant's husband was still listed on the mortgage, was receiving mail at that address, and was listed on his driver's license as living at that address.

(6) Agent Kropinski was allowed entrance to the home by claimant's mother; while inside, he heard claimant's husband tell claimant's mother to state to Agent Kropinski that he was not there.

(7) Agent Kropinski verified from claimant's mother that claimant's husband was still living in the home.

(8) On 11-12-08, claimant was sent a Notice of Case Action stating that her FAP benefits would be cancelled because the Department was unable to determine separate living arrangements for herself and her husband.

(9) On 11-17-08, claimant requested a hearing, alleging that the agency had never been in her home.

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).

A DHS-1171, Assistance Application must be completed when eligibility is re-determined. An application is considered incomplete until it contains enough information to determine eligibility. PEM 115. If there are discrepancies between the information given in the application and information provided from another source that could hamper an eligibility determination, a client must be given a reasonable opportunity to resolve the discrepancy. PEM 30, p. 5. Group composition may be verified if the information given by the claimant is questionable. PEM 212. Home calls may be used to verify certain factors which are in doubt. PAM 115, PAM 130.

It is undeniable that the OIG had a right to verify claimant's allegations of separation from herself and her husband; PAM 115 and 130 allow home visits in order to verify information which is questionable or in doubt. Furthermore, PEM 212 states that group composition should be verified if the information given by the claimant is questionable.

Claimant had stated on her assistance application that her husband was no longer living in the house; however, claimant's husband was still listed as being the mortgage holder of the house, and his car (verified by Secretary of State registration records) was seen in the driveway. Furthermore, his driver's license still listed claimant's home as his home address. While there could be legitimate explanations for these factors, claimant's given information certainly rose to the level of questionable, and a home visit was appropriate. Therefore, the Department was correct in sending an OIG agent to visit claimant in her home, and the claimant had a duty to

provide further verification to the agents in order to satisfy the need for a complete eligibility determination as proscribed by PAM 115.

Once there, the Department claimed that Agent Kropinski heard claimant's husband in the house, and that claimant's mother advised Agent Kropinski that claimant's husband still lived there.

Claimant alleges that claimant's mother was confused, and that marital stress, claimant's husband moved in with a friend, though he still visited regularly.

Unfortunately, claimant was unable to provide any proof of this beyond her own allegations. Even assuming that Agent Kropinski never entered the house, there is still the fact that claimant's husband still listed claimant's home as his mailing address, still listed claimant's address on his driver's license, had his car in the driveway, and was listed on the mortgage. At the very least, this gives rise to a strong presumption that claimant's husband lives in the house, a presumption that claimant has been unable to rebut with any physical proof to the contrary.

The Department requires verification of eligibility in order to allot FAP benefits. The presence or absence of claimant's husband gives distinct questions as to claimant's eligibility. Taking into account all the different factors that make questionable claimant's claim of her husband's absence, the undersigned believes that the Department was correct in their claim that they were unable to determine whether claimant's husband had separate living arrangements.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to cut off the claimant's FAP allotment was correct.

Accordingly, the Department's decision in the above-stated matter is, hereby,
AFFIRMED.

/s/

Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 15, 2009

Date Mailed: April 16, 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.

RJC/cv

cc:

