

[REDACTED]

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.: 2009-11029

Issue No.: 2001/3014

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

March 4, 2009

Oakland County DHS (3)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on March 4, 2009. The claimant personally appeared and testified.

ISSUE

Did the Department properly close the claimant's Food Assistance (FAP) and Medical Assistance (MA)?

FINDINGS OF FACT

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

1. The Claimant was a MA and FAP recipient.
2. On October 13, 2008, the department sent the claimant a request for verification including income for the claimant's husband. (Department exhibit 4)

3. On October 22, 2008, the claimant responded to the above request by stating that her husband was no longer in the home.
4. After being notified by protective services that the claimant's children were no longer in the home, the department closed claimant's Medicaid and daycare programs on December 8, 2008.
4. On December 20, 2008, the department closed the claimant's FAP for failure to verify the husband's employment.
5. On December 17, 2008, the Claimant filed a request for a hearing on the closure of her MA and FAP.

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 (formerly known as the Family Independence Agency) 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).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Here, the Department relies on notice from Child Protective Services, that the claimant's children no longer lived with her to close her MA and day care. The claimant offered no contrary evidence to these facts. The Department was correct in closing both the claimant's MA and daycare cases, since there was no eligible child in the home. The Claimant was eligible for the Adult Medical Program, as a single adult, but new enrolment was closed at the time.

Under PEM 500 the claimant must verify the income of all persons in the FAP group. The claimant failed to verify her husband's income because h was no longer living with her.

The department relied on a telephone conversation to assume that the claimant's husband's absence was temporary. The department representative testified that she commented that it was a "sad situation," and used the claimant's agreement with that assessment to label the husband's absence as temporary. The claimant testified that she made no reference to his possible return, and stated that she knew at the time that he would not return.

DEPARTMENT POLICY

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

To establish FAP group composition determines:

Who lives together.

The relationship(s) of the people who live together.

Whether the people living together purchase and prepare food together or separately, and

Whether the person(s) resides in an eligible living situation. (See "**LIVING SITUATIONS**" in this item.

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.

Spouses

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

In the instant case, the department erred in assuming that the claimant's husband's absence was temporary and including him in the claimant's FAP group. It was err to move to close the claimant's FAP when she did not respond to the request for information concerning her estranged husband's employment after she had already noticed the department that he no longer lived with her.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, **AFFIRMS** the department's decision to close the claimant's MA; and **REVERSES AND ORDERS** the Department to reopen the claimant's FAP retroactive to closure. The Department may request verification of the husband's leaving the Claimant's residence but must provide assistance in securing same if such assistance is requested.

/s/

Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/26/09

Date Mailed: 03/26/09

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 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.

MJB/jlg

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