

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: 2009-13160

Issue No: 3019

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 15, 2009

Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing on January 14, 2009. After due notice, a telephone hearing was conducted from Detroit, Michigan on April 15, 2009. The Claimant appeared and testified. Judy Fineman, FIM, appeared for the Department.

ISSUE

Whether the Department properly closed the Claimant's FAP & MA case on 12/31/08?

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 & MA recipient.
2. The Department received information that led it to believe that Claimant's daughter was not residing in the household including:
  - a. Lease date stamped 1/5/09 lists only client as tenant;

- b. Shelter form had property manager's name misspelled;
  - c. Daughter's school had wrong address listed;
  - d. The DHS 3380 shows an unlisted number for the school;
  - e. A letter from [REDACTED], who pays Claimant's expenses, listed an address in [REDACTED]. A Google search showed the address was registered to [REDACTED]  
[REDACTED]
3. Due to these inconsistencies, the Department removed Claimant's daughter from her FAP group.
  4. The Department closed Claimant's FAP on December 31, 2008 and issued a negative action against Claimant's MA benefits case.
  5. Claimant's FAP was recertified and reopened for a group of one (1) in January of 2009.
  6. Claimant testified that her daughter, [REDACTED], is currently residing with Claimant.
  7. Claimant testified that she was previously living at [REDACTED]  
[REDACTED]. This home went into foreclosure, however, and Claimant was forced to move.
  8. Claimant testified that she utilized her sister's address in [REDACTED] as a mailing address during the time that she was moving from the foreclosed home.
  9. For a short period of time, during the end of November, 2008, Claimant was homeless and was staying with a friend, [REDACTED]. Claimant's daughter was staying back and forth with Claimant and a cousin who lived in [REDACTED]. After December 1<sup>st</sup>, 2008, Claimant and her

daughter moved into their current home at [REDACTED]

- [REDACTED]
10. Claimant provided a lease that included Claimant's daughter, [REDACTED], as an occupant on the lease. (Exhibit 2).
  11. Claimant also produced a Summons & Complaint for nonpayment of rent showing that [REDACTED]. (Exhibit 2).
  12. On January 14, 2009, the Department received the Claimant's hearing request protesting the closure of the FAP and MA benefits.
  13. Claimant is currently receiving FAP benefits for a group of one (1) and MA benefits.

#### CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental 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).

A redetermination is a periodic case review which focuses on self-sufficiency issues and fulfillment of the Personal Responsibility Plan and Family Contract, and which also reestablishes eligibility of the group. A group is composed on individuals who live together and share in the purchase and preparation of food. PEM 212.

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. PAM 130, p. 1. The questionable information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. PAM 130, p.4; PEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. PAM 130, p. 4. Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. PAM 130, p. 6.

In the record presented, Claimant testified credibly that, with the exception of a few weeks in November of 2008, her daughter has been living with her. This Administrative Law Judge finds it credible that a lease would not list minor children as occupants as they are not contractually liable for the terms of the lease. Furthermore, the undersigned finds that Claimant's payor is living at [REDACTED] as a tenant which is why the Google search performed by the Department produced the Landlord as the owner of the property. The

undersigned also finds it credible that Claimant would provide the address of a family member as a mailing address to DHS as well as for school records during the period that she was going through housing transition. In addition, the document evidence provided by Claimant validates Claimant's factual explanations.

Based upon the foregoing facts and relevant law, it is found that there is no indication that the Claimant failed to comply with providing verification that her daughter was living with her. Ultimately, it is found that the Department improperly closed the Claimant's FAP and MA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's FAP and MA case.

Accordingly, it is ORDERED:

1. The Department's 12/31/09 FAP and MA closure is REVERSED.
2. The Department shall reopen the Claimant's FAP case for a group of two back to the date of closure, delete any associated negative actions, and supplement the Claimant for any lost benefits she was otherwise entitled to receive.

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/s/  
Jeanne M. VanderHeide  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 04/27/09

Date Mailed: 04/28/09

**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

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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.

JV/dj

cc:

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