

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: 2009-15164
Issue No: 2006; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 9, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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 April 9, 2009, in Detroit. Claimant personally appeared and testified under oath.

The department was represented by Vickie Hanks (FIS) and Lillia Dolkey (FIM).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUE

Did the department correctly remove claimant's grandson ([REDACTED] [REDACTED]) from claimant's FAP and MA-L because [REDACTED] no longer resides with claimant?

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 is the grandmother of [REDACTED]. Claimant's daughter ([REDACTED]) is [REDACTED] mother and lives with claimant.

(2) Claimant's mother ([REDACTED]) and claimant had physical custody of [REDACTED] until approximately January 2009.

(3) Since approximately January 2009, [REDACTED] father ([REDACTED]) has had physical custody of [REDACTED].

(4) On March 4, 2008, the caseworker added [REDACTED] to claimant's FAP and MA-L cases because [REDACTED] was physically present in claimant's home.

(5) In January 2009, the caseworker learned from [REDACTED] that [REDACTED] was now living with his father.

(6) Based on the information provided by [REDACTED] father, the caseworker sent claimant an FAP/MA-L closure notice (DHS-1605) stating that [REDACTED] benefits would close on January 21, 2009.

(7) Claimant did not respond to the negative action notice and did not file a timely hearing request.

(8) On January 21, 2009, [REDACTED] FAP and MA-L benefits were removed from claimant's case.

(9) On February 9, 2009, claimant reapplied for FAP and MA-L. Claimant did not list [REDACTED] as a member of her household.

(10) On February 20, 2009, claimant requested a hearing.

CONCLUSIONS OF LAW

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 (DHS or department) 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).

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).

Under current agency policy, the person who has physical custody of a minor child is entitled to benefits for that child. See PEM 210 and 212.

The preponderance of the evidence in the record shows that when the department removed [REDACTED] from claimant's FAP and MA-L cases, [REDACTED] was living with his father.

Based on a careful review of all the evidence in the record, the department removed [REDACTED] from claimant's grant because she did not have custody of [REDACTED] at the time the negative action was taken.

Based on this analysis, the Administrative Law Judge concludes that the department correctly removed [REDACTED] benefits from claimant's grants.

The Administrative Law Judge does not find any evidence of arbitrary or capricious action on behalf of the department.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the agency correctly removed [REDACTED] FAP and MA-L benefits from claimant's case because he was no longer physically present in claimant's home.

Accordingly, the department's action is, hereby, AFFIRMED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 9, 2009

Date Mailed: April 10, 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 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 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.

JWS/tg

cc:

[REDACTED]