

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: 2009-21090

Issue No: 3014

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 3, 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 June 3, 2009.

ISSUE

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

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 12-12-08, the OIG began an investigation into claimant's file to determine if claimant's partner was still a member of claimant's recipient group; claimant had alleged earlier in the year that he was not.

(3) On 1-12-09, OIG Agent William Huddleston made a visit to claimant's home.

(4) Agent Huddleston noted that a car belonging to one [REDACTED] approached the home.

(5) Said car was registered at claimant's home address.

(6) Agent Huddleston further noted that [REDACTED] was still listed on the rental agreement to the house, was receiving mail at that address, and was listed on his UCB case as living at that address.

(7) Agent Huddleston noted that [REDACTED] got out of the car in front of the house.

(8) Agent Huddleston then proceeded to question [REDACTED]

(9) Agent Huddleston verified [REDACTED] identity, and was told by [REDACTED] that he was the owner of the home.

(10) On 2-12-09, claimant was sent a DHS-3503, Verification Checklist, requesting verification information for [REDACTED]

(11) Claimant refused to provide that information, and maintained that [REDACTED] did not reside in the home.

(12) On 2-20-09, claimant was sent a Notice of Case Action stating that her FAP benefits would be cancelled because the Department was unable to determine the eligibility for claimant and [REDACTED]

(13) On 2-24-09, claimant requested a hearing, alleging that [REDACTED] did not live 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 130, 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 [REDACTED]. 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 [REDACTED] was no longer living in the house; however, [REDACTED] was still listed as being a tenant in the house (according to a rental agreement still in force), and his car (verified by Secretary of State registration records)

was seen in the driveway and is registered to that address. Furthermore, [REDACTED] UCB checks go to that address and that address is listed as his home address in that file. 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 Agent in order to satisfy the need for a complete eligibility determination as proscribed by PAM 115.

Once there, the Department claimed that Agent Huddleston met [REDACTED] in the driveway, and he told the Agent that he was the owner of the home.

Claimant alleges that [REDACTED] moved out over a year ago, and while he still uses that address as a mail drop and checks up on the house for claimant, he is not a resident.

Unfortunately, claimant was unable to provide any proof beyond a single electric bill in her son's name. While this bill does provide some sort of proof that [REDACTED] name has been taken off of the utility bills (when compared with older bills that bore [REDACTED] name), its weight is too small to be a deciding factor in the current case. Simply because a certain person's name is not on the utility bill does not provide exceptional proof that he does not live there—and exceptional proof is needed in this case. [REDACTED] still lists claimant's home as his mailing address, still lists claimant's address on his automobile registration, had his car in the driveway, and was listed on the lease. He told Agent Huddleston that he was the homeowner. He lists that address on his UCB case file. At the very least, this gives rise to a very strong presumption that [REDACTED] lives in the house, a presumption that claimant cannot rebut with only one utility bill.

The Department requires verification of eligibility in order to allot FAP benefits. The presence or absence of [REDACTED] gives distinct questions as to claimant's eligibility. Taking into account all the different factors that make questionable claimant's claim of [REDACTED]

absence, the undersigned believes that the Department was correct in their claim that they were unable to determine whether [REDACTED] 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: June 26, 2009

Date Mailed: June 29, 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:

[REDACTED]