

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: 2009-28317
Issue No: 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 4, 2009
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 August 4, 2009. The claimant personally appeared and testified.

ISSUE

Did the department properly place the claimant on his wife's Food Assistance Program (FAP) case beginning in June, 2009?

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 department received a copy of a "Notice of Rent Adjustment" from the [REDACTED] [REDACTED] showing the claimant had been added to his wife's ([REDACTED]) lease effective April 1, 2009. (Department Exhibit 1).

2. On June 4, 2009, the claimant turned in a [REDACTED] bill that had been mailed to him at the address: [REDACTED]. The bill was in the claimant's name and was for service at [REDACTED]. (Department Exhibit 2).

3. On June 17, 2009, the claimant submitted a "Month to Month Agreement" purporting to be a lease. This document was signed by the claimant on June 16, 2009. The document has the landlord name scratched out, does not contain the name of the tenant, has the property address scratched out and "[REDACTED]" written below it and also has the rental amount scratched out with [REDACTED] handwritten below it. There is no other identifying information on this document. (Department Exhibit 3 – 5).

4. The department added the claimant to his wife's FAP case.

5. The claimant submitted a hearing request on June 12, 2009, indicating that the worker took his food stamps away and put them on his wife's card (BRIDGE card) and that he doesn't live with his wife.

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).

Department policy states:

FOOD ASSISTANCE PROGRAM GROUP COMPOSITION

DEPARTMENT POLICY

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

To establish FAP group composition determine:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately, and
4. Whether the person(s) resides in an eligible living situation. (See “LIVING SITUATIONS” in this item.)

PEM, Item 212, p. 1.

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. PEM, Item 212, p. 1.

Spouses

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

Parents and Children

Children include natural, step and adopted children.

Parents and their children **under 22 years of age** who live together **must** be in the same group regardless of whether the child has his/her own spouse or child who lives with the group. PEM, Item 212, p. 1.

Primary Caretaker

The **Primary Caretaker** is the person who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a calendar month, on average, in a twelve-month period. PEM, Item 212, p. 1.

Responsibility to Report Changes

All Programs

This section applies to all groups **except** most FAP groups with earnings.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported **within 10 days**:

- . after the client is aware of them, or
 - . the start date of employment. PAM, Item 105, p. 7.
- See PAM 220 for processing reported changes.

Other reporting requirements include, but are **not** limited to, changes in:

- . Persons in the home
- . Marital status
- . Address and shelter cost changes that result from the move
- . Vehicles
- . Assets
- . Child support expenses paid
- . Health or hospital coverage and premiums
- . Day care needs or providers. PAM, Item 105, pp. 7-8.

MEMBER ADDS/DELETES

A **member add** that increases benefits is effective the month **after** it is reported **or**, if the new member left another group, the month after the member delete. In determining the potential FAP benefit increase, assume the FIP/SDA supplement and new grant amount have been authorized.

When a member leaves a group to apply on his own or to join another group, do a **member delete** in the month you learn of the

application/ member add. If the member delete decreases benefits, use **adequate notice** for the negative action. PEM, Item 550, p.3.

Verification

You **must** verify the responsibility to pay and the amount of certain expenses. See the individual expense policy for verification requirements. Document verification in the case record.

Do **not** budget expenses that require verification until the verification is provided. Determine eligibility and the benefit level without an expense requiring verification if it cannot be verified.

Example: Do **not** include a medical expense that might be covered by a reimbursement if the amount of the reimbursement cannot be verified.

Treat subsequently provided verification to an eligible FAP group as a change. Issue a supplement for lost benefits **only** if:

- . the expense could **not** be verified within 30 days of the application, and
- . the local office was at fault. PEM, Item 554, p. 2.

The claimant's hearing request indicates that he is not living with his wife and that his food stamps are being put onto her BRIDGE card. He also requests a different caseworker.

This Administrative Law Judge explained to the claimant that the administrative hearing process can not address any requests for new workers, as this must be addressed through the Department of Human Services. The claimant was referred to a supervisor at the local DHS office to make any complaints about his worker or requests for a different caseworker.

The claimant indicates that he is not living with his wife and he should be on a separate FAP case and receive his own benefits. Department policy indicates that spouses who are legally married and living together **MUST** be in the same group. PEM 212. In this case, the claimant testified that he and his wife have never resided together at the [REDACTED] address. The

claimant did testify that his wife lived with him at the [REDACTED] address just briefly.

However, the evidence does not support the claimant's contention. The [REDACTED] [REDACTED] added the claimant to his wife's rent contract. It would be unlikely that the [REDACTED] would have known to add the claimant to his wife's case, unless one of them had reported that they were married and living together.

Therefore, when DHS received the information showing that the claimant was married and living with his wife, they correctly added the claimant to his wife's FAP case.

If the claimant's circumstances have changed and he is no longer living in the residence, the claimant must report this and provide any verification necessary to allow the department to act on the changes.

The verifications the claimant has provided to the department support that he is living with his wife at the [REDACTED] address. The claimant provided a [REDACTED] bill on June 4, 2009, that was mailed to the claimant at the [REDACTED] address. The claimant attempted to explain this by testifying he had surgery in November, 2008 and had to have someone get his mail, so he had his bills mailed to his wife. However, the bill was dated May 29, 2009. According to the claimant's testimony, the surgery would have been six months prior to the bill being sent to his wife's address. It is unclear why he would still, six months later, be having the bills in his name sent to her address if he wasn't living with her. On June 17, 2009, the claimant submitted a "Month to Month Agreement" purporting to be a lease. This document was signed by the claimant on June 16, 2009. The document has the landlord name scratched out; does not contain the name of the tenant; has the property address scratched out and "[REDACTED]" written below it; and also has the rental amount scratched out with

██████████ handwritten below it. There is no other identifying information on this document. It certainly does not appear to be a legitimate document.

The claimant testified that the house on ██████████ was left to him by his mother. The claimant testified that the probate court had awarded him the house. It would seem highly unlikely that the claimant would be paying rent on a property that was now legally his. However, this Administrative Law Judge suggested the claimant provide the department with a copy of the probate court decision and also with some utility bills in the claimant's name that are for the ██████████ address and being mailed to the claimant at the ██████████ address. The department representative testified that if reliable information was received that the claimant was not living with his wife, such as the suggested documents, the department would remove the claimant from his wife's case and open a separate case for him.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly added the claimant to his wife's case beginning in June, 2009 as all information provided supports the claimant was living with his wife. Thus, the department's actions are UPHeld. SO ORDERED.

/S/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 5, 2009

Date Mailed: August 5, 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.

SLK/om

cc:

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