

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: 200929501
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 11, 2009
Jackson 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 August 11, 2009.

ISSUE

Did the Department correctly place claimant's FAP case into closure for failing to verify 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 a FAP recipient in Jackson County.
- (2) Claimant had an eligibility review in April, 2009.
- (3) The Department requested verifications from claimant including her husband's income.

- (4) Claimant informed the Department that her husband no longer resided in the household.
- (5) The Department requested verification from claimant of this fact.
- (6) Claimant provided court documents showing a divorce proceeding, a copy of her lease with her husband removed, copies of bills showing her husband at a different address, and shelter verification forms.
- (7) Claimant's landlord was subsequently contacted by the caseworker.
- (8) Claimant's caseworker spoke with a leasing manager who stated that it appeared that the lease had been altered, and that to the best of their knowledge, claimant's husband still lived at the residence, and claimant and her husband had visited the leasing office together the week before.
- (9) Claimant's caseworker also looked up claimant's divorce proceedings on the internet, which showed claimant's case had been closed, prior to any hearing.
- (10) Claimant was unable to provide an order of divorce.
- (11) Claimant's husband had used the alternative address for mail for a good deal of time.
- (12) Claimant's caseworker contacted the husband, who told the caseworker that all his belongings still remained, had not notified the apartment manager of an address change, nor changed his address with his employer.
- (13) Claimant's husband was given a chance to verify a new address.
- (14) Claimant's husband did not provide evidence of an address change.

- (15) Claimant's caseworker decided that this was evidence of a falsification of group composition and closed claimant's FAP case for failing to verify group composition.
- (16) Claimant filed for hearing on August 25, 2009, alleging that DHS incorrectly closed her case.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

An application or redetermination is considered incomplete until it contains enough information to determine eligibility. BAM 115. Eligibility is determined through a claimant's verbal and written statements; however, verification is required to establish the accuracy of a claimant's verbal and written statements. Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory. An application that remains incomplete may be denied. BAM 130.

The Department argued that claimant was unable to sufficiently verify her group composition, because there was sufficient doubt in the record to render this eligibility factor incomplete, inconsistent or contradictory. BAM 130 states that verification can be required when a verification factor is unclear or inconsistent.

Claimant purported to provide several distinct pieces of evidence to show that her husband was no longer in the eligibility group; claimant argued that this evidence was enough to prevent her case from closing.

Claimant's main piece of evidence was evidence that she had filed for divorce from her husband as of [REDACTED], 2009. A pre-trial hearing was due to be held in [REDACTED], 2009, and the actual trial was supposed to be held in [REDACTED], 2009. However, upon investigation, the Department caseworker noted that the case on the Court Docket had been closed as of [REDACTED] 2009, before a trial had been held in the case. The Department argued that the divorce papers were only evidence that a divorce had been sought, not evidence that a divorce had been granted.

The undersigned agrees with this contention. While claimant's court documents do show that claimant filed for divorce, these papers do not provide great weight to show that claimant's husband was not living in the household. Furthermore, the undersigned notes that a divorce is usually not granted without a trial; the case was marked as closed before a trial had been granted. While this could have been solved had claimant produced an actual order of divorce, claimant has not done so in the current case, nor did she provide one at hearing. While the undersigned admits that this is not evidence in any way, he feels that the closure of the case before trial is at the very least, questionable, meaning that this verification factor remains unclear, and the Department was correct in requiring further verification.

Claimant's next piece of evidence was a lease that evidently showed that her husband had moved out. This too, was unclear; the Department contacted the leasing office in May, 2009, who told the Department that the lease had been altered, and that the claimant and her husband had been in the leasing office together only the week before. The leasing office manager also told the Department that they had never been notified that claimant's husband had moved out,

and as far as they were concerned, her husband was still the lease holder. The Department contended that these conflicting stories rendered this eligibility factor unclear; the undersigned agrees, and holds that the lease itself is not sufficient verification.

Finally, the claimant submitted bills that showed that her husband used a different address. The Department argued that this address had been in use for at least 7 months before the redetermination, and was in use before the divorce was even filed. The undersigned, while acknowledging that the bills show that a different address was in use, are far from clear verification, and thus, remains unconvinced. At the very least, there are questions, and questions are anathema to the idea of a clear eligibility factor.

Client interviews conducted with the Department did little to resolve the case. Claimant's husband did not deny living with the claimant. While he stated that he had moved out, he stated that all of his belongings were still in the apartment in question. A CDC application filed concurrently listed claimant's husband at the address in question. When asked for proof of a license change or some other address verification, claimant's husband either did not, or was not able to provide such verification.

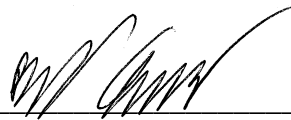
The undersigned is not convinced that all of the above evidence compiled by the Department is proof that claimant's husband is still in the home. However, nor is he convinced that claimant's husband is not in the home. The best that can be said is that it is unclear whether claimant's husband is in the home, and all the evidence compiled by both sides does nothing to alleviate the questions. Verification can be required when an eligibility factor is unclear. The evidence shows that the eligibility factor of group composition was unclear at the time of the negative action. Claimant did not submit evidence that showed for certain that her husband was

out of the home. Therefore, at the time of the negative action, the group composition eligibility factor was unclear, and the Department was correct when it issued its negative action notice.

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 close claimant's FAP case was correct.

Accordingly, the Department's decision is, hereby, **AFFIRMED**.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/22/10

Date Mailed: 03/26/10

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/dj

cc:

