

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: 201014307

Issue No: 3020

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 8, 2010

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 hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on February 8, 2010. At the hearing, the Claimant was present and testified. Linda Riffenburg, FIM and Katherine Shaw, OIG Investigator appeared on behalf of the Department.

ISSUE

Whether the Department properly closed Claimant's Food Assistance Program ("FAP") benefits effective 12/1/09 due to Claimant's failure to cooperate with the OIG.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant was an active FAP recipient.

2. The Department determined that Claimant's income was questionable and referred the case to the OIG for investigation.
3. The OIG investigator testified that Claimant was uncooperative with the investigation interview. (Exhibit 1, pp. 3-4).
4. Claimant testified that on the date of the unannounced home interview she was up all night with her sick daughter and that her daughter had just fallen asleep.
5. Claimant testified that she provided all relevant information to the Department prior to the interview.
6. Claimant testified that she pays \$681.00 in rent. Claimant receives \$498.00 in child support and receives loans from her mother up to around \$300.00 per month for the difference in rent and utilities until such time that Claimant receives disability benefits applied for. This is supported by a letter from Claimant's mother. (Exhibit 1, p. 6).
7. The Department terminated Claimant's FAP benefits effective 12/1/09 for failure to cooperate.
8. On November 30, 2009, the Department received the Claimant's written request for a hearing protesting the proposed recoupment action.
9. The Department reinstated Claimant's benefits pending the outcome of the hearing.

#### 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 Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“PEM”), and the Reference Tables (“RFT”).

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105, p. 5.

In the present case, the Department believed that the Claimant had an income discrepancy instigating the OIG investigation. During the hearing, however, the Department admitted that Claimant is receiving \$498.00 per month in child support rather than the \$337.00 per month that was budgeted at the time of the investigation. In addition, prior to the investigation, Claimant had already provided verification from her mother that her mother was loaning money every month as needed. Claimant testified credibly that she was surviving on the two incomes and food stamps. Claimant also provided an explanation as to why her behavior seemed uncooperative at the time of the interview as she had not slept all night and was afraid that her daughter, who had also not slept, would awake.

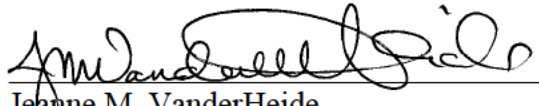
The Administrative Law Judge finds that the Department failed to provide enough information to show that Claimant was uncooperative. Claimant did not refuse to provide any information as she had already given everything relevant to the Department and it was in the Department file. Furthermore, the Department failed to prove that Claimant’s income is not as she stated. Accordingly, based on the foregoing relevant facts and law, the undersigned finds that the Department’s closure of the Claimant’s FAP benefits effective 12/1/09 is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed Claimant's FAP benefits effective 12/1/09.

Accordingly, it is ORDERED:

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

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

Date Signed: 03/10/10

Date Mailed: 03/11/10

**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.

JV/dj

cc:

