

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: 2010-14566
Issue No: 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 10, 2010
Ottawa County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 March 10, 2010. Claimant personally appeared and testified.

ISSUE

Did the department correctly terminate claimant's Food Assistance Program (FAP) and Medicaid (MA) benefits on October 26, 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. Claimant, her husband and their children were FAP and MA recipients.
2. On October 26, 2009, claimant's husband submitted a written statement to the department saying he is requesting the FAP and MA case be closed, that the claimant has moved out of the home and he does not know where she is residing at. Claimant's husband also wrote that

he will be completing a new application for himself and couples' children as they reside with him on average of 16 days per month. (Department's Exhibit 4).

3. Department terminated claimant's FAP and MA benefits on October 26, 2009 and mailed her a Notice of Case Action. (Department's Exhibits 1-3).

4. Claimant requested a hearing on December 9, 2009 stating that she feels her case was closed in error as she did not request that it be closed, and that she was not made aware her case was closed until she tried to purchase food on November 3, 2009. Claimant also wrote that she believes her case was closed "for fraudulent reasons by my soon to be ex-husband".

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

Departmental policy requires that client report all changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days after the client is aware of them, including persons in the home and address and shelter cost changes that result from the move. BAM 105.

In claimant's case, her husband provided a written statement asking that the MA and FAP case be closed, and stating that claimant has moved and her whereabouts were unknown. Departmental policy for MA states that only an adequate notice is needed when a recipient requests in writing that the case be closed. Adequate notice is defined as a written notice sent to the client at the same time an action takes effect. Furthermore, for FAP eligibility purposes an adequate notice is to be given when a change is reported in writing and signed by an eligible group member, and department can determine the new benefit level or ineligibility based solely on the written information. BAM 220.

Claimant's hearing testimony is that she contacted the department on October 23, 2009 to report she had moved. Department has no record of this telephone call. It is also noted that the claimant did not state in her hearing request that she had contacted the department on October 23, 2009, only that her husband stated "fraudulent reasons" on his written statement asking their case be closed. Furthermore, claimant's then case worker was in the office both on October 23, 2009 and October 26, 2009, according to department's manager who checked such records immediately following the hearing. Notice of Case Action was promptly mailed on October 26, 2009 by this same caseworker, after claimant's husband submitted a written statement requesting MA and FAP case closure. If the claimant had indeed reported her change of address to the caseworker on October 23, 2009, it appears unlikely that the caseworker would not have checked into the matter further on October 26, 2009.

Claimant's husband has re-applied for MA and FAP benefits and is receiving them for himself and couples' children. While the claimant states that her husband is a dishonest person, she also testified that they have joint custody of their children because he is a good father, and have the children equal amount of time during the year. FAP policy defines a Primary Caretaker as 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. However, if a child spends virtually half of the days in each month, averaged over a twelve-month period with each caretaker, the caretaker who applies and is found eligible first, is the Primary Caretaker. The child is always in the FAP group of the Primary Caretaker. BEM 212.

Claimant's personal difficulties with the father of her children are understandable. However, department had no reason to disregard written statement provided by her husband on October 26, 2009, asking the case be closed. Husband's statement that he did not know where the claimant was is most likely false, as it is questionable he would write that he would be having the children 16 days out of the month without knowing how to contact the claimant. Department does not have any record of the claimant reporting her address change or whereabouts prior to October 26, 2009, and departmental policy quoted above specifies that an MA or FAP recipient can request case closure. Furthermore, claimant does not dispute that she and her husband have the children equal period of time. Therefore, he is equally entitled to receive benefits for the children if he applies for such benefits first, which he did.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly terminated claimant's MA and FAP benefits on October 26, 2009.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/

Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 31, 2010

Date Mailed: March 31, 2010

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 mailing 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.

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