

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: 2010-17242
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 11, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on January 15, 2010. After due notice, a telephone hearing was held on Tuesday, May 11, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) eligibility?

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 Claimant receives FAP benefits.
- (2) The Claimant applied for FAP benefits for himself and one of his sons [REDACTED] on

June 5, 2009. Department Exhibit 1 – 16.

(3) The Claimant indicated on his June 5, 2009, FAP application that he was not applying for benefits for two other sons and a daughter [REDACTED] Department Exhibit 1 – 16.

(4) On October 22, 2010, the Department removed the Claimant's children from his FAP group, which lowered his FAP allotment. Department Exhibit 17.

(5) The Department received the Claimant's request for a hearing on January 15, 2010, protesting the reduction of his FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130, p. 1. A collateral contact is a direct

contact with a person, organization, or agency to verify information from the client. BAM 130, p. 2. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130, p. 2.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons resides in an eligible living situation. BEM 212. 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 other caretaker is considered the absent caretaker. BEM 212.

The Claimant applied for FAP benefits for himself and his son [REDACTED] on June 5, 2009. The Claimant and his former spouse share custody of this child equally. The Department approved the Claimant for FAP benefits on June 8, 2009. On September 1, 2009, the Claimant's former spouse applied for FAP benefits. The Department removed the Claimant's children from his FAP group on November 22, 2009, and added them to the former spouse's FAP group.

The child [REDACTED] spends virtually half his time with the Claimant and half his time with the Claimant's former spouse. The Claimant applied for and was approved for FAP benefits as a FAP group including [REDACTED] before the former spouse applied for FAP benefits. Based on the evidence and testimony presented at the hearing, there is significant doubt that the Department properly followed policy when it removed [REDACTED] from the Claimant's FAP group on October 22, 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has failed to demonstrate that it properly removed the child [REDACTED] from the Claimant's group on October 22, 2009.

The Department's FAP eligibility determination is REVERSED. It is further ORDERED that the Department shall:

1. Determine the proper composition of the Claimant's FAP group as of November 1, 2009.
2. Determine the Claimant's FAP eligibility as of November 1, 2009.
3. Issue the Claimant any retroactive FAP benefits, if any, he may be eligible for as of November 1, 2009.
4. Provide the Claimant with written notice of his FAP eligibility.

/s/ _____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 25, 2010

Date Mailed: May 25, 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 60 days of the filing of the original request.

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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.

KS/vc

cc:

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