

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.: 2010-25441
Issue No.: 3014
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 5, 2010
Wayne County DHS (15)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on April 5, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, and [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly reduced Claimant's FAP group from five persons to four persons?

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 an ongoing recipient of FAP benefits.
2. Claimant's FAP group was reduced from five persons to four persons.
3. The FAP group reduction was caused by removal of [REDACTED].

4. The removal was done automatically by Bridges when [REDACTED] biological applied for FAP benefits.
5. The removal of [REDACTED] from Claimant's FAP group caused an unspecified reduction in FAP benefits to Claimant.
6. Claimant submitted a hearing request on 3/3/10 regarding removal of [REDACTED] from her FAP group.
7. The record of the hearing was left open until 4/20/10 to allow both parties to submit documents on their behalf.

CONCLUSIONS OF LAW

The Food Assistance Program (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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

Claimant was an ongoing FAP recipient with five persons in the household. Claimant's household included FAP group member [REDACTED]. [REDACTED] was automatically removed by the DHS computer system, Bridges, when [REDACTED] biological mother applied for FAP benefits in approximately 12/2009.

In the present case, Claimant and [REDACTED] biological mother are each claiming that [REDACTED] resides in their household. BEM 212 which covers FAP group composition gives some guidance on how to resolve such issues: accept the client's statement unless questionable

or disputed by another caretaker, if primary caretaker status is questionable or disputed, verification is needed and allow both caretakers to provide evidence supporting his/her claim.

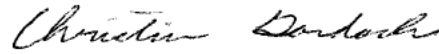
In the present case, DHS did not request any verification from Claimant regarding whether [REDACTED] lives with Claimant. DHS should have made such a request from Claimant and [REDACTED] biological mother. Following the due date of the request, DHS should have made a determination as to which household [REDACTED] rightly belongs based on the submitted verifications. As an active recipient, Claimant was not given the opportunity to verify whether or not [REDACTED] lived with her.

The undersigned extended the record in the present case to allow DHS and Claimant an opportunity to verify [REDACTED] proper household. Neither side presented verification. Though Claimant did not verify that [REDACTED] lived with her, DHS did not verify that removal of [REDACTED] was justified. The status quo should have continued. It is found that DHS improperly removed [REDACTED] from Claimant's FAP group because they failed to provide Claimant an opportunity to prove that [REDACTED] was in the household and because DHS offered no evidence supporting the removal.

DECISION AND ORDER

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly removed Destiny Nelson from Claimant's FAP group due to a failure to provide Claimant an opportunity to submit verifications showing Destiny was a household member.

DHS is ordered to recalculate Claimant's FAP benefits to a five person household beginning 1/2010 until such time DHS.



Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 4/27/2010

Date Mailed: 4/27/2010

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.

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.

CG/jlg

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