

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],

Reg No: 2010-35181  
IssueNo: 3008  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
June 10, 2010  
Wayne County SSPC East

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 conducted from Detroit, Michigan on June 10, 2010. The Claimant appeared and testified. Steven Earl, FIM appeared on behalf of the Department.

ISSUES

Whether the Department properly denied the Claimant's application for Food Assistance, (FAP) because the Claimant was shown as having an active open FAP case in her mother's FAP group at the time she applied for benefits.

FINDINGS OF FACT

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

1. On May 10, 2010, the Claimant applied for Food Assistance (FAP).
2. The Department issued a Notice of Case Action on May 10, 2010 denying the Claimant's application for FAP. Exhibit 1

3. At the time of his application, the Claimant was active as a group member in her mother's FAP group, although she had not lived with her mother for the last 12 months.
4. The Claimant reapplied for FAP benefits June 1, 2010 and her case is still pending.
5. It is unclear whether the Claimant's caseworker attempted to verify, through collateral sources, where the Claimant was residing and whether it was appropriate for her to be included in her mother's group.
6. The Claimant is 19 years of age.
7. The Department received Claimant's hearing request on May 12, 2010 protesting the denial of her FAP application. The application was received by the Department on May 17, 2010.

#### 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/Program Administrative Manual ("BAM/PAM"), the Bridges/Program Eligibility Manual ("BEM/PEM"), and the Bridges/Program Reference Manual ("BRM/PRM").

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. BAM 130, p. 1. The questionable information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to

verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. BAM 130, p.4; PEM 702. Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 6.

The Claimant in this matter testified credibly that she had not resided with her mother for the last twelve months and her application was denied because she was open as a group member in her mother's group. BEM 212 requires that when a person applies and leaves another group, a member delete is to be made in the month the Department is aware of the application. BEM 212, page 7.

The Department did not attempt to determine where the Claimant was living through collateral contact with the mother of the Claimant. Ultimately, the Claimant was successful in resolving the issue and she is now removed from the mother's case. The Department's denial of the Claimant's application, rather than keeping the Claimant's application open for benefit programs which required an investigation, was in error. The application should have remained open pending a conclusion of the investigation by the Department regarding the issue of where the Claimant resided. FAP benefit requests, while the Department investigated, the Claimant should not be denied these benefits, beginning May 10, 2010, if she is otherwise eligible to receive same.

Department policy does provide that a person cannot be on multiple cases or a member of more than one FAP group, BEM 222, page 2. Policy does not support denying an application simply because there is a dispute about group membership.

The Claimant has reapplied and her case is still pending. When that application is resolved, the Department should reinstate the original application and provide the Claimant FAP benefits retroactive to May 10, 2010, when she initially applied, if the Claimant is otherwise eligible for FAP benefits.

This decision is influenced, in part, by the fact that the individual caseworker who denied the application was not made available at the hearing. Thus the Department could not provide testimony of what steps were taken to investigate the Claimant's application, if any, before it was denied. It took almost one month to get the Claimant's mother to relinquish her from her case; once that occurred, the Claimant's application should have been evaluated for eligibility. The Department, for its part, acted properly when it automatically denied the application rather than attempting to resolve the issue due to the confusion created by the child's mother.

Based upon the foregoing, it is found that the Department closed the Claimant's case improperly as the Claimant, an adult, did apply on her own behalf as she is entitled to do. Her case should have remained pending an investigation. Accordingly, the Department's decision to close the claimant's FAP application is hereby 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 the Claimant's FIP, FAP and MA benefits.

Accordingly, it is ORDERED:

The Department's action, denying the Claimant's May 10, 2010 application for FAP, is REVERSED.

The Department is ordered to reinstate the Claimant's March 10, 2010 application for FAP once a determination is made regarding the currently pending application for FAP benefits filed by the Claimant on June 1, 2010.

If the Claimant is otherwise deemed eligible to receive FAP benefits, the Department shall be required to grant the Claimant FAP benefits retroactively and to supplement the claimant for FAP benefits retroactive to May 10, 2010.



Lynn M. Ferris  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 06/22/10

Date Mailed: 06/23/10

**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.

LMF/dj

cc:

