

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED] t
Claimant,

Reg No: 2010-10736
Issue No: 1005, 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 2, 2010
Livingston County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 [REDACTED] on February 2, 2010.

ISSUE

Whether the Department properly denied Claimant's application for Food Assistance Program (FAP) and Family Independence Program (FIP) 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 September 24, 2009, Claimant applied for FAP and FIP benefits. Claimant was 19 at the time, lived with her family and had an open MA case. The Department contacted Claimant's mother who informed the Department that she did not want to apply for FAP benefits. (Exhibits 1-2)

(2) On October 12, 2009, the Department mailed Claimant an Appointment Notice of October 19, 2009 at 1:00 p.m. for her FIP application. (Exhibit 3)

(3) On October 19, 2009 at approximately 6:00 p.m., Claimant received and opened the letter containing the Appointment Notice although it is unknown when the Appointment Notice arrived at Claimant's house.

(4) On October 19, 2009, the Department mailed Claimant a Notice of Missed Interview. (Exhibit 4)

(5) On October 30, 2009, the Department mailed Claimant an Application Notice which informed her that she was not eligible for FAP benefits because she failed to provide the Department with information needed to determine eligibility and she was not eligible for FIP benefits because she failed to meet interview requirements.

(Exhibit 5)

(6) On November 18, 2009, the Department received Claimant's hearing request.

CONCLUSIONS OF LAW

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. Departmental policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Manual (BRM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Group composition is the determination of which persons living together are included in the FAP program group. To establish FAP group composition, the Department must consider who lives together and their relationship(s), whether the people living together purchase and prepare food together or separately and whether the person(s) resides in an eligible living situation. BEM 212, p.1

The relationships of the people who live together affects whether they must be included or excluded from the group. Spouses who are legally married and live together must be in the same group. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child has his/her own spouse of child who lives with the group. A person acting as a parent and the children for whom he or she acts as a parent who live with him must be in the same group. PEM 212, p.1

If it is not a mandatory group member situation, it must be determined if the people live together and purchase and prepare food together or separately. In general, persons who live together and purchase and prepare food together are members of the same FAP group. BEM 212, p.4-5

Living together means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. Persons who share only an access area (e.g., entrance or hallway) or non-living area (e.g., laundry) are not considered living together. BEM 212, p.2

A temporarily absent person is considered to be living in the home. A person's absence is temporary if:

- His/her location is known; and
- There is a definite plan for his/her return; and
- He/she lived with the program group before the absence (newborns are considered to have lived with the group); and
- The absence has lasted or is expected to last 30 days or less. PEM 212, p.2

The phrase purchase and prepare together is meant to describe persons who customarily share food in common. Persons **customarily** share food in common if:

- . they each contribute to the purchase of food; or
- . they share the preparation of food, regardless of who paid for it; or
- . they eat from the same food supply, regardless of who paid for it.

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 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 The Department must conduct an in-person interview at application before approving FIP benefits. An in-person interview is not required before denying assistance if it is clear from the application or other sources that the group is ineligible. BAM 115, p. 13.

In the instant case, there is no dispute that Claimant was under 22, lived with her mother and her mother did not want to file for FAP benefits. Therefore, the Department did not have the necessary information to proceed with the FAP application. There is also no dispute that Claimant did not attend the interview for FIP benefits. Claimant might not have opened her mail until a week after the notice was sent out, but that does not mean it was not received timely at the home. In addition, the Department had no record of Claimant contacting the Department and/or speaking with Claimant about her FIP application until after the closure date.

With the above said, I find that the Department established that it acted in accordance policy in denying Claimant's application for FAP and FIP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in denying Claimant's application for FAP and FIP benefits.

Accordingly, the Department's FAP and FIP eligibility determinations are
AFFIRMED, it is SO ORDERED.

/s/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 2, 2010

Date Mailed: February 2, 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 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.

SMB/db

cc:

