

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: 2010-15239
Issue No: 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 22, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on February 22, 2010.

ISSUE

Did the Department correctly reduce claimant's FAP allotment for failing to verify group composition?

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 a FAP recipient in Wayne County.
- (2) Claimant's grandson was removed from the FAP group on October 1, 2009.
- (3) The Department requested verifications from claimant with regard to whether the claimant's grandson was in the home.

- (4) Claimant did not provide any documentation.
- (5) Claimant's FAP benefits were reduced to \$97 due to the change in group size.
- (6) Claimant filed for hearing on January 4, 2010 alleging that DHS incorrectly computed her budgets by failing to include her grandson in the budget.

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

An application or redetermination is considered incomplete until it contains enough information to determine eligibility. BAM 115. Eligibility is determined through a claimant's verbal and written statements; however, verification is required to establish the accuracy of a claimant's verbal and written statements. Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory. An application that remains incomplete may be denied. BAM 130.

The Department argued that claimant was unable to sufficiently verify her group composition, because there was sufficient doubt in the record to render this eligibility factor incomplete, inconsistent or contradictory. BAM 130 states that verification can be required when a verification factor is unclear or inconsistent.

Claimant was given several opportunities to verify her group composition; as of the date of the hearing claimant had not done so. Furthermore, there was a legitimate question as to

whether claimant's grandson was in the home. According to Department testimony and exhibits, claimant gave conflicting and confusing answers as to her grandson's residence. Claimant stated on the DHS-1010, Redetermination, her grandson did not prepare meals or eat food with the household. When asked, claimant could not, or would not, provide a clear answer. This was supported by claimant's own testimony at the hearing; when the claimant was asked flat-out by the undersigned as to her grandson's residence she responded with statements such as "He's there full time until he leaves", and "I don't control whether he stays or goes". Claimant would not answer questions as to how often her grandson is in the home.

As the Administrative Law Judge is unable to determine her grandson's residence, the only conclusion that can be reached is that this eligibility factor was unclear and inconsistent. As such, the Department was within its power to remove this eligibility factor from the FAP equation.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to remove claimant's grandson from the FAP group was correct.

Accordingly, the Department's decision is, hereby, AFFIRMED.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/27/10

Date Mailed: 04/27/10

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.

RJC/dj

cc:

