

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: 201027539

Issue No: 3014

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 14, 2010

Macomb 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 April 14, 2010.

ISSUE

Did the Department correctly reduce claimant's FAP allotment due to a reduction in 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 Macomb County.
- (2) On March 11, 2010, claimant's caseworker received a new hire notice for claimant's son. A notice was sent requesting information on the employment.
- (3) Claimant contacted the Department on March 15, 2010, but it is unclear exactly what was said.

- (4) Claimant has difficulties with the English language.
- (5) The Department believed that claimant informed the Department that his son no longer lived in the home and had not done so for 5 or 6 years.
- (6) No verification of the exact group size was requested from the claimant.
- (7) Claimant disputed stating that his son had left the home.
- (8) Claimant's FAP benefits were reduced to \$682 due to the change in group size.
- (9) Claimant filed for hearing on March 19, 2010.

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. The questionable information might be from the client or a third party. BAM 130.

At the hearing, the Department testified that claimant had informed him that his son was no longer in the house, and hadn't been for 5 or 6 years. The claimant disputed this at the hearing. The Administrative Law Judge, after considering the testimony, is of the belief that, given claimant's difficulties with English, understandable confusion as to the claimant's exact situation could have occurred. After hearing testimony, the undersigned is unclear as to the claimant's group size, and cannot make a determination without verification.

However, the undersigned believes that this request for verification should have been sent out by the Department, and that the son could not be removed without that request for verification.

BAM 130 states that when a verification factor is unclear or inconsistent, verification must be obtained. Claimant's statements, as related by the Department, seem to be, at the least, unclear. Given the communication difficulties experienced at the hearing, the undersigned believes that a miscommunication was possible. Therefore, the Department should send out a request for verification before making any changes to the claimant's case file, and give the claimant a chance to clearly explain his living situation. If the claimant fails to return adequate verification, the Department will then be justified in removing the claimant's son from the group, should it remain in question.

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 son from the FAP group, without a request for verification, was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby,
REVERSED.

The Department is ORDERED to remove the negative action in the current case and restore claimant's benefit level retroactively to the date of negative action. The Department is FURTHER ORDERED to request verification from the claimant with regard to group size. The claimant is ORDERED to return to the Department the requested verifications within the appropriate time limit, as specified by policy.



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

Date Signed: 08/12/10

Date Mailed: 08/12/10

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:

