

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.: 2010-30786
Issue No.: 3014
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 17, 2010
SSPC East (98)

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 May 17, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly excluded Claimant's sister as a group member as part of Claimant's Food Assistance Program (FAP) application.

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 applied for FAP benefits on 3/12/10.
2. On Claimant's Assistance Application (DHS-1171), Claimant listed his 13 year old sister as a household member.

3. As of the 3/12/10, Claimant's sister was a FAP recipient on a case at a separate address in which Claimant's mother is the grantee.
4. DHS verbally advised Claimant to submit verification that he has custody of his sister by 3/22/10.
5. Claimant submitted an Affidavit of Relatives to DHS by 3/22/10.
6. DHS did not consider the Affidavit of Relatives form to be acceptable verification of Claimant's custody of his sister because they stated that the document was not legible.
7. On approximately 3/22/10, DHS processed Claimant's 3/12/10 FAP benefit request and excluded Claimant's sister as a household member.
8. DHS denied Claimant's FAP request on 3/22/10 due to excess income for a FAP group size of one.
9. Claimant submitted a hearing request on 3/31/10 regarding the failure by DHS to process Claimant's FAP benefit request as a group of two persons.

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).

The application process begins with the submission of an Assistance Application (DHS-1171) or other acceptable form. BAM 110. DHS then interviews the applicant and requests

documents necessary for verifying an applicant's eligibility. *Id.* Following the due date for submission of the documents, DHS then processes the application, either calculating the client's eligibility based on the client's circumstances or denying the applicant for failing to verify necessary information or some other shortcoming. BAM 220.

DHS contended that they did not process Claimant's FAP request as a two person group because the document verifying Claimant's custody of his sister was not legible. The undersigned requested a copy of the custody document and found it to be legible. It is found that Claimant submitted verification of custody for his sister and that the document was legible.

DHS contended that when Claimant was interviewed, Claimant was directed to have his mother remove his sister from his mother's case because recipients cannot receive benefits under multiple cases. DHS contends that it was Claimant's responsibility to have his mother remove his sister from her case. DHS is to reevaluate caretaker status when a second caretaker applies for assistance for the same child. BEM 212 at 4. Claimant has no responsibility to make any person, including his mother, to perform any actions as a requirement to his household's eligibility. DHS, not Claimant, has the power and responsibility to determine a FAP group's household members. Once a client verifies his FAP group members, the onus falls on DHS to process the changes accordingly. DHS should have accepted Claimant's Affidavit of Relatives to verify custody of his sister. DHS should have then forwarded the document to the DHS staff responsible for Claimant's mother's case. DHS then could have evaluated that document and made further requests to Claimant's mother to give her an opportunity to refute Claimant's documentation. At that time, DHS could have determined whether the child resided with Claimant or his mother based on the submitted documentation. DHS did not perform any of the necessary steps after requesting verification of custody from Claimant.

Though the undersigned agrees with Claimant's contention that he submitted necessary documents to have his sister considered as a FAP group member, Claimant is not entitled to processing from the original FAP application date. It took Claimant 10 days from the date of his application to submit verification of custody. DHS must also be given time to forward the verification to the worker responsible for Claimant's mother's case and that worker must act on the change; generally, FAP changes must be processed by DHS specialists within 10 days. BEM 505. Finally, Claimant's mother is given a minimum of 10 days to receive notice of the change in her FAP benefits even though it appears that it was her failure to report that the child was removed from her home. Based on the above timelines, Claimant could not have received FAP benefits for a two person household any earlier than 5/2010. BAM 220.

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 denied Claimant's FAP request. It is ordered that DHS take the following steps in reevaluating Claimant's FAP benefits:

1. Evaluate Claimant's FAP application beginning 5/1/10 for a group of two (Claimant and his sister) unless Claimant's sister's mother is able to provide verification of custody that is superior to Claimant's verification; and
2. Manually supplement Claimant any lost FAP benefits resulting from the failure by DHS to timely process Claimant's 3/12/10 Assistance Application as a FAP group of two even if the supplement results in a multiple FAP benefit issuance for Claimant's sister.



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

Date Signed: 5/26/2010

Date Mailed: 5/26/2010

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.

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