

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2011 1316
Issue No: 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 17, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 November 17, 2010. The Claimant and her mother appeared and testified.

ISSUE

Did the Department properly close the Claimant's Food Assistance Program benefits?

FINDINGS OF FACT

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

1. On October 26, 2009, the Claimant applied for FAP benefits.
2. On November 9, 2009, an in-person interview took place. Benefits were opened effective October 26, 2009.

3. On September 10, 2010, the Claimant's mother called and informed the Department that the Claimant, who is 20 years old, started living with her in March 2010.
4. On September 15, 2010, the Department initiated closure of the Claimant's FAP case due to policy BEM 212 which requires adults under 22 years of age be included in their parents FAP case if they reside in their household.
5. On September 17, 2010, the Claimant requested a hearing.
6. On October 1, 2010, the Claimant's FAP case closed.

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) administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the present case, Claimant requested a hearing after she was told her FAP case would close, and if she wanted FAP benefits, she would need to apply with her mother since she lives with her mother. The issue before this Administrative Law Judge is the following: whether the Department properly terminated FAP benefits? And whether or not the Claimant actually received her FAP benefits?

Relevant policy BEM 212 page 1:

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 or child who lives with the group.

The Department correctly determined the Claimant would only be eligible for FAP benefits with the inclusion of her mother since she was living with her mother and she was in fact under the age of 22. The testimony given by the Department and Claimant's mother indicates the Claimant's mother placed the call regarding the FAP benefits. The Claimant's mother, at the time of the call, was not her representative nor was listed on her application as such. The Department received information from another source which requires the Department to verify by sending out a verification request to the Claimant to confirm the living arrangement. The Department, upon receipt of the information regarding the living situation, should have had the Claimant update her application and add the mother to the FAP case. Instead, the Department simply closed the FAP case without allowing for the group composition to be determined. The Department policy allows for both the addition and deletion of group members. In this case, the Department simply needed to add the Claimant's mother to her FAP case. The notice sent out regarding the FAP closure indicates the closure reason to be "Not Eligible. You requested that your assistance be stopped". The record fails to reflect any mention of the Claimant calling and requesting her case be closed.

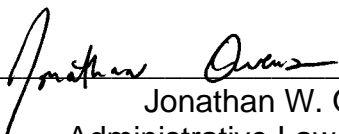
The second issue, developed at hearing, is the Claimant's assertion she never received FAP benefits. The Department provided not only a benefits issued screen from BRIDGES for the months in question but also presented a copy of the BRIDGES transaction screen showing the FAP benefits being withdrawn. In order for a person to access the BRIDGE card benefits, they must have the pin number associated with the card. The Claimant testified she never received the card and asserted she never shared the card or pin with anyone. This ALJ found the Claimant's testimony regarding the non

use of the BRIDGE card less than credible. The evidence provided clearly shows the benefits were not only issued but were in fact used. No evidence was presented to support the Claimant's claim that she failed to receive the card or its benefits. This ALJ finds it hard to believe a person applied for FAP benefits in October 2009 and never received the card or a denial notice and never called to inquire about the requested benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the following:

1. The Department improperly closed the Claimant's FAP benefits. The Department's decision in this regard is REVERSED. The Department is ORDERED to determine the proper group size for the Claimant's FAP benefits and, if eligible, reinstate FAP benefits and supplement if necessary.
2. This ALJ further finds the Claimant did in fact receive the benefits issued from October 2009 until September 2010 as asserted by the Department.


Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/02/10

Date Mailed: 12/02/10

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.

JWO/dj

cc:

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