

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: 2011-261
Issue No: 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 26, 2010
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 held on October 26, 2010. The claimant personally appeared and provided testimony, along with her daughter, [REDACTED]

ISSUE

Did the department properly include Mustapha Kellah in the Food Assistance Program (FAP) group?

FINDINGS OF FACT

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

1. The claimant reported on a Semi-Annual Contact Report (DHS-1046) dated November 18, 2009, that Mustapha Kellah was no longer in the home. The department removed him from the claimant's FAP case. (Department Exhibit 1 – 2)

2. On April 5, 2010, [REDACTED] submitted an Assistance Application (DHS-1171) indicating that he was still residing with the claimant and the children. [REDACTED]

[REDACTED] reported that he had never left the home. (Department Exhibit 3 – 18)

3. On April 6, 2010, a department worker spoke with the claimant. At that time, she indicated that there was a court order to have [REDACTED] move out of the home, but that he had never moved and that he uses a different address so the court doesn't know that he hasn't moved. (Department Exhibit 23)

4. On April 21, 2010, a department worker again had a telephone conversation with the claimant. At that time she indicated that [REDACTED] was still in the home, but that she would deny he lived there in the future because the court order stated he had to leave. (Department Exhibit 23)

5. The claimant submitted a Redetermination form (DHS-1010) on May, 2010 that indicated Mustapha was still in the home. (Department Exhibit 19 – 22)

6. Effective June 1, 2010, the department added [REDACTED] back into the FAP program group, reducing the FAP benefits (due to his unemployment compensation benefit income). (Department Exhibit 24)

7. The claimant submitted a hearing request on June 7, 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 Program Reference Manual (PRM).

Department policy indicates:

FOOD ASSISTANCE PROGRAM GROUP COMPOSITION

DEPARTMENT POLICY

You must determine who is included in the Food Assistance Program (FAP) group prior to evaluating the nonfinancial and financial eligibility of everyone in the group.

To establish FAP group composition determine:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately, and
4. Whether the person(s) resides in an eligible living situation. (See "LIVING SITUATIONS" in this item.)

BEM, Item 212, p. 1.

Parents and Children

Children include natural, step and adopted children.

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. BEM, Item 212, p. 1.

In this case, the claimant is disputing the department's action in adding [REDACTED] back into the program group. The claimant testified during the hearing that he had left the home due to a court order. However, this is contradicted by department forms both the claimant and Mustapha submitted to the department and two telephone conversations the department had with the claimant.

On November 18, 2010, the claimant reported on a Semi-Annual Contact Report (DHS-1046) that Mustapha had left the house. However, on April 5, 2010, Mustapha Kellah submitted an application to the department that indicated he was residing in the claimant's home. On April 6, 2010, a department worker had a telephone conversation with the claimant. During this conversation, the claimant admitted that [REDACTED] was still living with her. A second telephone conversation on April 21, 2010 occurred with a department staff member. At that time, the claimant again admitted that Mustapha was in the home. Further, the claimant indicated that Mustapha was in the home for a June, 2010 redetermination.

The department testified that the claimant has submitted no evidence to show that Mustapha is not living in the home. The claimant presented no evidence to show that he was not living in the home at this hearing. Given the claimant's repeated statements that he was in the home and Mustapha's statement that he was residing in the home, the claimant has presented no evidence to give the department reason to believe otherwise.

Department policy indicates that parents and children under 22 years of age who live together **must** be in the same group. BEM 212. As the evidence shows Mustapha was living in the home, the department properly included Mustapha in the FAP budget.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly included Mustapha Kellah in the Food Assistance Program (FAP) group.

Accordingly, the department's determination is UPHeld. SO ORDERED.

/s/

Suzanne L. Morris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 8, 2010

Date Mailed: November 8, 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.

SLM 

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