

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.: 201117637
Issue No.: 3025
Case No.: [REDACTED]
Hearing Date: March 2, 2011
District: Oakland County DHS (02)

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 held on March 2, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], [REDACTED], and [REDACTED] appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefits due to Claimant's failure to be a Michigan resident.

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP benefit recipient.
2. On an unspecified date, DHS received rent receipts which DHS considered to be questionable verification of Claimant's rent.
3. DHS sent an investigator to Claimant's stated address to determine Claimant's rental circumstances.
4. Based on the report (Exhibit 1) submitted by the investigator, DHS concluded that Claimant was not a Michigan resident.

5. Claimant is a recipient of Social Security Administration (SSA) benefits and has a residential address listed in [REDACTED] (see Exhibit 2) with SSA.
6. On 12/20/10, DHS terminated Claimant's FAP benefits because Claimant is not a resident of Michigan.
7. On 1/18/11, Claimant requested a hearing disputing the termination of her FAP benefits.

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 Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001- 3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RTM). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

For all programs, a person must be a Michigan resident. BEM 220 at 1. A person is considered a resident while living in Michigan for any purpose other than a vacation, even if he/she has no intent to remain in the state permanently or indefinitely. Eligible persons may include persons who entered the state with a job commitment or to seek employment and students.

In the present case, DHS concluded that Claimant was not a Michigan resident. Claimant testified that she is a Michigan resident. This decision is solely dedicated to the issue of whether Claimant is or is not a Michigan resident.

DHS relied on several different types of evidence to conclude that Claimant is not a Michigan resident. DHS first became skeptical of Claimant's residency when rent receipts were submitted on Claimant's behalf in an attempt to verify her rent. DHS stated that the rent receipts were all written in the same person's handwriting and contained consecutive receipt numbers. Neither of these qualities seems unusual for Claimant's circumstances. Testimony was provided that Claimant lives with her landlord. No evidence was given that Claimant's landlord owned any properties other than the one in which Claimant lived. It would seem logical that the rent receipts would be consecutively numbered if Claimant was the only tenant of her landlord. It is also logical that one landlord would write receipts in the same handwriting. The undersigned was not particularly persuaded by this testimony.

DHS also testified that the rent receipts were submitted as part of a single complete page of documents rather than in separate strips. DHS contended that genuine rent receipts would be given one at a time and that by submitting a single page of receipts, it

tends to show that Claimant's rent receipts were done all at once which would tend to show that were fraudulently created. Claimant did not explain how she received the receipts though she was not asked by the undersigned or by DHS. The undersigned finds some merit to the DHS contention though reasonable explanations exist to explain the receipts appearing on a single page. Also, the DHS contention, even if accepted, does not establish that Claimant is not a Michigan resident, it would only establish that Claimant's rent receipts were not authentic.

The undersigned was concerned that Claimant's residential address with SSA listed her as a homeless resident of [REDACTED] (see Exhibit 2). Claimant's mailing address was a post office box in [REDACTED]. The undersigned finds the residential address to be strong evidence of Claimant's location. In Claimant's defense, her SSA mailing address was listed as a post office box in [REDACTED]. It would be reasonable for a person to be concerned about updating a mailing address rather than a residential address. Nevertheless, the residential evidence in Florida is some proof that Claimant may not be a Michigan resident.

DHS primarily relied on a report (Exhibit 1) completed by an investigator to determine that Claimant was not a Michigan resident. The report outlined the investigator's activities and conclusions concerning the address of Claimant. The undersigned accepted the report as evidence to show that DHS relied on the report. For purposes of this decision, the report is inadmissible hearsay. The investigator could have testified concerning the report's statements but did not do so.

The most compelling argument against Claimant was the circumstantial evidence. Claimant conceded that she had not appeared at the DHS office since 2009. DHS testified that Claimant could have appeared at the DHS office to prove she was in Michigan but Claimant never did. Claimant had no apparent transportation or medical issues which would have prevented her appearance at the DHS office. In Claimant's defense, there was no written correspondence from DHS requesting Claimant's presence.

Claimant's testimony was not particularly persuasive. During the hearing, Claimant initially testified that she was home. Claimant then stated she was at the post office checking her mail. Claimant stated that her passport, a letter authorizing her as a notary public and her identification would all show a residential address of Michigan. Claimant was provided an opportunity to fax her current identification which Claimant stated would reflect a Michigan address; Claimant failed to send the identification.

Claimant concedes her area code (704) is a Nevada area code, not one from Michigan. Again, the evidence was somewhat explained by Claimant though it tended to show that Claimant is not a Michigan resident.

The standard the undersigned must employ to determine fact is a preponderance of evidence standard, that something is more likely than not to be accurate. It should be noted that if a higher standard were employed, the undersigned may have reached a

different conclusion. However, based on the totality of evidence (the SSA information, Claimant's contradictory testimony, Claimant's area code and Claimant's failure to appear at the DHS office) it is more likely than not that Claimant is not a Michigan resident. Accordingly, it is found that DHS properly terminated Claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FAP benefits effective 2/2011 because Claimant is not a Michigan resident. The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 03/14/11

Date Mailed: 03/17/11

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.

CG/dj

cc:

