

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No. 201129298
Issue No. 3014
Case No. [REDACTED]
Hearing Date: May 11, 2011
Wayne County DHS (49)

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 May 11, 2011. The claimant appeared and testified; Robertha Ward appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED] Specialist, and [REDACTED] Specialist, appeared and testified.

ISSUE

Whether DHS properly determined Claimant's Food Assistance Program (FAP) benefits for 2/2011-4/2011 based on an alleged reporting by Claimant concerning group members leaving the household.

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 prior to 2/2011, Claimant reported to DHS that her child, [REDACTED], was out of her household.
3. On an unspecified date, DHS is sued FAP benefits to Claimant effective 2/2011 and 3/2011 based on a FAP benefit group which excluded Desmond as a member.
4. On 3/29/11, Claimant submitted a Redetermination to DHS which indicated that Claimant's child, [REDACTED] was not a household member.

5. DHS determined Claimant's FAP benefit eligibility for 4/2011 by excluding [REDACTED] as a group member.
6. On 4/11/11, Claimant requested a hearing to dispute the 2/2011-4/2011 FAP benefit issuances by DHS, specifically, objecting to the exclusion of her children as group members.

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). DHS (formerly known as the Family Independence Agency) administers the FAP 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 (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

The undersigned will refer to the DHS regulations in effect as of 2/2011 and 3/2011, the months of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

In the present case, Claimant disputed her FAP benefit issuances for 2/2011 and 3/2011 because DHS excluded one of her children from the FAP benefit determination. Claimant disputed her 4/2011 FAP benefit issuance because DHS excluded a different child from the FAP benefit determination. Claimant did not object to her 5/2011 or ongoing FAP benefits and testified that she was satisfied with the DHS group composition concerning her ongoing FAP benefits.

In determining a client's eligibility for FAP benefits, DHS must determine with whom a client lives and the relationship of the client to the other household members. Part of the relationship analysis involves whether the client and other household members share food.

DHS testified that Claimant's FAP benefit group composition for 2/2011-4/2011 was based on Claimant's own statements. DHS submitted a Redetermination in support of their determination. The Redetermination lists the names of household members factored into the FAP benefit determination. The Redetermination section concerning household members provides the following directions to clients, "Below are the names of people we show living in your household. Cross out incorrect information and write the correct information in the space provided. Add names and information about people

living with you who do not appear on this form.” The Redetermination was mailed to Claimant on 2/14/11 and returned to DHS on 3/29/11.

Claimant’s computer generated Redetermination form listed four persons, the first three names were unedited; the fourth person, [REDACTED], was crossed out and there were no additional names added to the form. [REDACTED] name also included the statement, “(out) 2/14/11” under the column “Date person moved in or out of your home”.

Based on Claimant’s own written statements, DHS had every reason to believe that [REDACTED] left Claimant’s home on 2/14/11. Accordingly, DHS adjusted Claimant’s FAP benefits for 4/2011. A similar issue arose for Claimant’s child, [REDACTED]

DHS removed [REDACTED] from Claimant’s FAP benefits beginning 2/2011. DHS was unable to state what led to the removal but relied on the Redetermination as evidence that Claimant must have reported his exit from the home because she failed to add [REDACTED] as a household member on the Redetermination. The DHS explanation is sensible and again based on Claimant’s written statements. The circumstances for removing [REDACTED] are less persuasive due to the lack of evidence that led to [REDACTED] removal. The removal had to occur prior to the date of the mailing of the Redetermination (2/14/11).

Claimant provided clarifying testimony concerning the statements on her Redetermination. Claimant testified that she was essentially told by her previous specialist to not list [REDACTED] and [REDACTED] as household members. Claimant’s testimony would normally be met with immense skepticism, but in this case, Claimant added the following statement to her Redetermination, “[REDACTED] [REDACTED] was asked to be removed from my case”. Claimant’s statement tends to verify her testimony. As Claimant’s former specialist failed to appear for the hearing, Claimant’s testimony was not rebutted. The undersigned was persuaded by Claimant’s testimony sufficiently to consider ordering DHS to add Claimant’s children to the 2/2011-4/2011 FAP benefit determinations; ultimately, it is found that Claimant’s argument should fail.

It was not disputed that Claimant relied on her DHS specialist to inform her how to complete her Redetermination. Claimant stated that she has doubts about listing [REDACTED] and [REDACTED] as household member because of the number of nights that they slept elsewhere. Note that the Redetermination had a column that addresses how often a person sleeps in the home; thus, the issue could have been addressed by Claimant had she more carefully examined the Redetermination. Claimant testified that her former specialist told Claimant to cross out [REDACTED] name and to not add [REDACTED] on the Redetermination; this was not disputed.

The undersigned has difficulty in fully embracing Claimant’s argument that DHS forced Claimant complete the Redetermination in a certain way. There was no allegation of

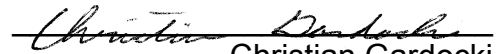
duress or threats. Clients have the burden of completing their own documents. There is no best way to complete a form other than to be forthcoming. DHS should not be assessed the responsibility for how clients answer questions about their own household.

Claimant did not clarify why she called DHS to assist her with how to answer questions about her household or what DHS stated in response to her questions about who to list as household members. Based on Claimant's testimony, it appeared that Claimant was trying to list her household members in accordance with DHS regulations. Clients are not expected to know DHS regulations and should not base any answers on trying to guess at what they are. Clients are expected to know their own household members. If there is any doubt about a response, a clarifying statement is appropriate. In the present case, Claimant needed to only look at the questions a little more closely to see that how many days a person slept in the home was a question on the Redetermination. In other words, the undersigned is troubled that Claimant sought help from DHS in submitting information she should know better than DHS.

The undersigned is also troubled that Claimant sought compensation after complying with the DHS responses. If Claimant knew she was given poor advice by DHS, then she should not have complied with the advice that she sought. Claimant should have known the consequences of not listing two of her children in the home would result in a benefit determination that excluded the children. Though the undersigned found all of Claimant's testimony to be credible and there is plenty of fault by DHS for giving bad advice, the undersigned finds that Claimant ultimately bears the responsibility of her own statements. It is found that DHS properly believed that Claimant's child, [REDACTED] was out of Claimant's household for 2/2011 and 3/2011 and that [REDACTED] was out of the household effective 4/2011. It is also found that DHS properly determined Claimant's FAP benefit group composition for 2/2011-4/2011 based on Claimant's written statements.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FAP benefit eligibility for 2/2011-4/2011. The actions taken by DHS are AFFIRMED.


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

201129298/CG

Date Signed: May 23, 2011

Date Mailed: May 23, 2011

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 of the rehearing decision.

CG/ctl

cc:

