

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-36734
Issue No: 1021; 2018; 3019

[REDACTED]

Berrien County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 received on October 5, 2010. After due notice, a telephone hearing was held on July 7, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly closed Claimant's Food Assistance Program (FAP); Family Independence Program (FIP) and Medical Assistance (MA) benefits?

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 was receiving FAP, FIP and MA at all times pertinent to this hearing. (Hearing Summary).
2. Claimant's Senior/Disabled/Veteran (SDV) group size is 4.
3. On March 31, 2011, based on information received from the prosecutor's office, the department initiated a Front End Eligibility Referral for an Office of Inspector General (OIG) to investigate questionable information received from Claimant. According to the prosecutor's office, Claimant was living with the non-custodial parent and their five children. (Hearing Summary).
4. On April 15, 2011, the OIG completed the investigation consisting of interviews with neighbors of Claimant and the non-custodial parent, in

addition to the postman and neighbors at both residences. (Exhibit 1, pages 1-2).

5. On April 18, 2011, the department mailed Claimant a Notice of Case Action informing him that his FAP and FIP programs were closing effective May 1, 2011, because no group members met the eligibility requirements and Claimant failed to verify the information necessary to determine eligibility for the programs. (Department Exhibit 2, pages 1-3).
6. On May 6, 2011, the department mailed Claimant a Notice of Case Action informing him that his MA program was being closed effective June 1, 2011 because no group members met the eligibility requirements and Claimant failed to verify the information necessary to determine eligibility for the program. (Department Exhibit 3, pages 1-2).
7. Claimant submitted a hearing request on June 1, 2011, protesting the closure of his FAP, FIP and MA benefits. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP, FIP and MA programs pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015 and MAC R 400.3101-3131 respectively. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Per policy, Clients must cooperate with the local office for all programs in determining initial and ongoing eligibility. Clients must completely and truthfully answer all questions on forms and in interviews. BAM 105. The department is required to verify group composition factors for FAP if the information is questionable. BEM 212. Refusal of any FIP EDG member to provide information needed to determine FIP and Medicaid eligibility, causes ineligibility for the entire FIP EDG group and ineligibility for the person

about whom the information was refused and that person's unmarried children under 18 living in the home. BEM 210; BAM 105.

In March 2011, the prosecutor's office informed the department they were rejecting the Office of Child Support's referral because Claimant repeatedly refused to cooperate with the prosecutor's office by failing to attend appointments or return documents. The Prosecutor's Office also told the department that they suspected the non-cooperative parent was living with Claimant. The department is required to verify information regarding an eligibility factor that is unclear, inconsistent, incomplete or contradictory, whether the questionable information is from the client or a third party. BAM 130.

Based on the information from the third-party prosecutor's office, an investigation was launched at the request of the department by the Office of Inspector General to determine whether the non-custodial parent was residing with Claimant. Based on the results of the investigation, the department determined the non-custodial parent was residing with Claimant and closed Claimant's FAP, FIP and Medicaid programs and Claimant requested a hearing.

Claimant testified that the non-custodial parent did not live with him. Claimant admitted that she was at his home everyday caring for their children, but stated that she did not stay the night and did not live there. Claimant's neighbors told the OIG investigator that they believed the non-custodial parent lived with Claimant and the Claimant's mailman stated that the non-custodial parent received mail at Claimant's house.

The non-custodial parent at the time of this case closure was renting a home for [REDACTED] a month, plus utilities. The home contained no furniture, no clothing, no food, and no blinds on the living room windows. The non-custodial parent claimed she could not afford furniture for her home because she was over extended. She also stated that the only mail she received at Claimant's home was the Comcast bill, which she subscribed to for the children. The non-custodial parent's neighbors believed that she did not live in the rental home and one neighbor told the OIG in April 2011, that he had not seen the non-custodial neighbor since she moved in, in January 2011.

The OIG testified that the non-custodial parent told him she prepared and shared meals with Claimant. The non-custodial parent did not deny this statement. According to policy, persons customarily share food in common if they share the preparation of the food or they eat from the same food supply, regardless of who paid for it. In general, persons who live together and purchase and prepare food together are members of the FAP group. BEM 212.

The Administrative Law Judge finds Claimant's and the non-custodial parent's testimony less than credible. While the non-custodial parent showed that she was renting a house, she presented no evidence that she actually lived there, only evidence that she received mail there. There was no food, clothing or furniture in her rented home, and by the non-custodial parent's own admission, she prepared and shared all her meals with Claimant and their children in Claimant's home. Taken together with the interviews of the neighbors, this showed that the non-custodial parent was living with Claimant. As a result, the department's actions are upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed Claimant's FIP, FAP and MA benefits. Accordingly, the department's actions are UPHeld.

It is SO ORDERED.

_____/s/_____

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 7/14/11

Date Mailed: 7/14/11

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 90 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.

VLA/ds

