

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

IN THE MATTER OF:



Reg. No: 2011-5027
Issue No: 3008



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 December 15, 2010. The claimant appeared and provided testimony.

ISSUE

Did the department properly close the claimant's Food Assistance Program (FAP) and Family Independence Program (FIP) benefits for failure to provide verification of eligibility?

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 spoke with a Department of Human Services (DHS) caseworker on October 13, 2010. The claimant indicated during this interview that the father of two of her children helps her daily with the children. The claimant was advised to return for an appointment on October 14, 2010 and to bring the children's father. (Department Exhibit 1)
2. The claimant and Mr. Carradine (the children's father) attended the appointment on October 14, 2010. [REDACTED] did not want to be added onto the claimant's case because he did not want to attend Work First. [REDACTED] stated that he takes the children three to four days

each week and that he has joint custody with the claimant. [REDACTED] indicated that he played semi-professional football and did odd jobs to support himself, but admitted that he had not reported the income to the department. (Department Exhibit 1)

3. [REDACTED] had his own FAP case that shows he applied for FAP in May, 2010 and indicated he was homeless. However, the mailing address he used is the claimant's home address. (Department Exhibit 1, 2)
4. The department mailed the claimant a Notice of Case Action (DHS-1605) on October 14, 2010, informing her that the FIP and FAP would close for failure to verify the group composition of the household. (Department Exhibit 4 – 10)
5. The claimant submitted a hearing request on October 25, 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).

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 Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy states:

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM, Item 105, p. 5.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM, Item 105, p. 5.

Mandatory FIP EDG Members

When cash assistance is requested for a dependent child, or a dependent child is a mandatory FIP EDG member, all of the following individuals who live together are in the FIP EDG, regardless of program request status:

- Dependent Child.
- Child's legal parent(s).
- Child's legal siblings who meet the definition of a dependent child (siblings have at least one legal parent in common).
- Legal parent(s) of the child's siblings.
- Child's legal stepparent, even after death of or divorce from the parent.
- Child's legal stepsiblings who meet the definition of a dependent child, even after death of or divorce from the parent.
- Child's child.

Refusal of any FIP EDG member to provide information needed to determine FIP eligibility, causes ineligibility for the entire FIP EDG. BEM 210.

VERIFICATION REQUIREMENTS

Verify group composition factors if the information given is questionable. Such factors might include boarder status, age or senior members, and inability to purchase and prepare meals separately.

Primary Caretaker

Accept the client's statement regarding the number of days per month (on average) a child sleeps in their home. Verify only if questionable or disputed by the other parent. BEM 212.

In this case, the claimant is disputing the department's determination to close the claimant's FIP and FAP benefits for failure to provide verification of the correct group composition. The claimant had a conversation with a department worker on October 13, 2010. During this conversation, the claimant indicated that she received daily help from the father of two of her children. To gather more information, the department worker made the claimant an appointment on October 14, 2010 and requested the children's father also attend.

The claimant and [REDACTED] attended the appointment on October 14, 2010. During the appointment, both parties gave conflicting information. [REDACTED] indicated that he did not want to be added to the claimant's case because he did not want to attend Work First. He stated that he had his own FAP case. He admitted that he had income from playing semi-professional football and doing odd jobs, but also admitted that he had not reported that income. Both parties indicated that they shared joint custody of the children, but when the department staff member asked [REDACTED] if he was in the home daily, he replied that he was there three or four days each week. Later, he indicated that he was not in the home, but took the children to his home for three to four days each week, even though he could not or would not provide any address.

The claimant disputed that [REDACTED] had the children three to four days each week. The claimant testified that [REDACTED] never lived with her or even stayed with her, but that he occasionally took the children for a day or two. When asked where he took the children to, the claimant indicated that she did not know where he lived or where he took the children. The claimant also admitted that some of the household bills were in [REDACTED] name.

When the department worker checked [REDACTED] case, he discovered that Mr. [REDACTED] had indicated he was homeless on the application, but used the claimant's address as his mailing address. The claimant admitted that [REDACTED] had used her address as his mailing address.

Claimants are required to comply with the local office to allow the department to determine initial or ongoing eligibility. BAM 105. To determine eligibility for FIP and FAP benefits, the department must be able to determine who resides together, who has primary caretaker status of the children and income of the group members. Each of these criteria came into question when conflicting information was provided by the claimant and [REDACTED]. The claimant and [REDACTED] were given the opportunity to straighten out the issues and provide any verification of eligibility criteria. However, no verification was provided to show the actual group composition for both FAP and FIP. Thus, the department closed the claimant's FIP and FAP due to the ambiguity as they were unable to determine the claimant's eligibility for these programs.

It is noted that the claimant did reapply for FIP and FAP and the claimant provided some verification that [REDACTED] was not residing at her residence at that time. The claimant began to receive benefits again once verification was provided.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed the claimant's Food Assistance Program (FAP) and Family Independence Program (FIP) benefits for failure to provide verification of eligibility.

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: 2/10/11

Date Mailed: 2/10/11

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.

[REDACTED]