

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201221936
Issue No.: 3014
Case No.: [REDACTED]
Hearing Date: January 25, 2012
Wayne County DHS (17)

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 January 25, 2012 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

The issue is whether DHS properly reduced Claimant's Food Assistance Program (FAP) benefits based on a removal of Claimant's children from her 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. Claimant received FAP benefits based on a household size of four persons, which included Claimant's three minor children.
3. On an unspecified date, Claimant's children no longer resided with Claimant.
4. On 11/16/11, DHS initiated a reduction of FAP benefits, based on a household reduction of FAP benefit group members to be effective 12/2011.
5. On 12/15/11, Claimant requested a hearing to dispute the FAP benefit reduction.

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 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 controlling DHS regulations are those that were in effect as of 12/2011, the effective month 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 a reduction of FAP benefits effective 12/2011. It was not disputed that the only basis for the FAP benefit reduction involved whether DHS properly removed Claimant's three children from the FAP benefit calculation. DHS contended that the children no longer lived with Claimant as of 12/2011. Claimant contended that either she lived with all three children, or that she lived with her oldest child and her two younger children were essentially kidnapped from her by the children's father.

DHS relied on an email from a Child Protective Services (CPS) worker as justification for the FAP benefit reduction. The email indicated that the CPS worker had face-to-face interviews with Claimant's oldest daughter and the two younger children's father. Based on information obtained from the interviews, the CPS worker determined that Claimant's two youngest children resided with their father and that Claimant's oldest child resided with Claimant's sister at an address which Claimant did not live.

Though the email contained hearsay statements, it was considered admissible based on a work-product exception to the hearsay rule. The email was also given a fair amount of weight as it would be unlikely that a CPS worker would want to make falsified written statements.

Claimant responded to the DHS evidence by giving apparently inconsistent statements concerning her two youngest children. Claimant initially contended that she lived with all three children before later contending that her children's father took the two youngest children from her, resulting in an upcoming custody hearing. Claimant's eventual concession tends to support the credibility of the CPS email.

Claimant consistently contended that she resided with her oldest child. Potential evidence such as a custody document, a CPS document or testimony from her children

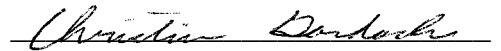
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may have been persuasive evidence to support Claimant's testimony. Claimant was unable to furnish any evidence for her contention. An attempt was made to contact Claimant's sister during the hearing, but the attempt was not successful.

Based on the presented evidence, the CPS email which stated that Claimant did not reside with any of her children was found more persuasive than Claimant's testimony. Accordingly, it is found that DHS properly reduced Claimant's FAP benefits based on removal of group members from Claimant's home.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly reduced Claimant's FAP benefit issuance for 12/2011 due to the removal of group members from Claimant's home. The actions taken by DHS are AFFIRMED.


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

Date Signed: January 27, 2012

Date Mailed: January 27, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

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.

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Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

