

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201267063
Issue No.: 3014
Case No.: [REDACTED]
Hearing Date: August 29, 2012
County: Wayne DHS (18)

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on August 29, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) group composition in a FAP benefit termination based on a failure to verify assets.

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 is a married individual, and at some point, was separated from her spouse.
3. Claimant reported that only she and her daughter lived at her residence.
4. On an unspecified date, Claimant's previously separated spouse applied for benefits and reported that he resided with Claimant.
5. Claimant's spouse provided a mortgage statement for Claimant's address, a repair bill for cable and a car registration to verify his residential address.

6. DHS subsequently mailed a Verification Checklist to Claimant requesting verification of her spouse's bank information.
7. Claimant failed to submit her spouse's bank information.
8. On 7/19/12, DHS terminated Claimant's FAP benefit eligibility effective 8/2012 due to Claimant's failure to verify her spouse's asset information.
9. On 7/26/12, Claimant requested a hearing to dispute the FAP benefit termination.

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 present case concerns a FAP benefit termination due to a failure to verify assets. Claimant did not dispute her failure to verify assets; instead, Claimant contended that the request for verification of her spouse's assets was improper because Claimant's spouse did not live with her. If Claimant's spouse did not live with her, then DHS would have no reason to verify her spouse's assets to determine Claimant's FAP benefit eligibility.

Spouses who are legally married and live together must be in the same FAP benefit group. BEM 212 (4/2012), p. 1. If Claimant's spouse lived with Claimant, then the DHS request for asset information would be proper because assets are a relevant factor to FAP benefit eligibility, and her spouse would have been a mandatory FAP benefit group member. Thus, the disputed issue in the present case concerns whether Claimant's spouse did or did not live with Claimant at the time of the FAP benefit termination.

DHS gave some background as to why they believed Claimant's spouse was a member of Claimant's household. DHS testified that Claimant's spouse applied for medical benefits on an unspecified date. DHS testified that correspondence sent to Claimant's reported mailing address (one that was not with Claimant) was returned. Subsequent conversations between DHS and Claimant's spouse resulted in a statement by Claimant's spouse that he lived with Claimant at her reported address. It should be noted that the specialist who spoke with Claimant's spouse did not testify and was not available for the hearing. Though the conversations between Claimant's spouse and DHS are hearsay, the evidence tended to support that her spouse made such a statement to DHS because he subsequently submitted documents to DHS in an attempt

to verify his residential address. This evidence is not persuasive in establishing where Claimant's spouse lived, but is supportive of a basis for DHS to have doubts about who lives in Claimant's household.

DHS presented a current car registration (Exhibit 1) with Claimant's spouse's name and Claimant's address. The registration also included the name of Claimant's daughter. Claimant never explained why a vehicle registration would be in her spouse's name while listing her address.

DHS presented a cable repair bill (Exhibit 2) that listed Claimant's spouse's name and Claimant's address. Claimant conceded that the cable bill is in her spouse's name. Claimant stated that she keeps the cable bill in her spouse's name because she has a 20 year old debt with a cable company.

DHS presented a mortgage statement for Claimant's residence in the name of her spouse. The mailing address on the mortgage statement is a post office box. Claimant stated that her spouse has always paid her mortgage even though he has not lived with her in several years. The fact that the mortgage statement does not have Claimant's residence as a mailing address is somewhat supportive in finding that her spouse does not live with her.

During the hearing, DHS ran a Secretary of State search of Claimant's spouse's address. DHS stated that the search could only verify a current address. DHS stated that the search revealed that her spouse currently lives outside of Claimant's home, but that an address change was made on [REDACTED], shortly after DHS initiated termination of Claimant's FAP benefit eligibility. DHS stated that the search does not allow access to previous addresses.

Overall, the DHS documentary evidence was not compelling. However, it was sufficient to establish a presumption that Claimant's spouse lived with Claimant at the time of the FAP benefit termination. The presumption is rebuttable.

Claimant presented no documents to support her contention that her spouse never lived with her. The expectation of such documents might be unreasonable if Claimant and her spouse are on bad terms or rarely see each other. Claimant's testimony was somewhat inconsistent in that she implied that she rarely sees her spouse and has little interest and knowledge of her spouse's whereabouts due to past domestic violence issues. Claimant subsequently conceded that her spouse visits his daughter every two months and that he pays Claimant's mortgage. This evidence tended to establish that Claimant's spouse is not estranged, which is what Claimant implied at the hearing outset.

Based on the presented evidence, it is found that it is more likely than not that Claimant's spouse was a part of Claimant's household at the time of the FAP benefit termination. Thus, the DHS request for asset information of Claimant's spouse was

proper and the subsequent benefit termination was also proper when the asset information was not verified.

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 group composition prior to terminating Claimant's FAP benefit eligibility due to a failure to verify assets. The actions taken by DHS are AFFIRMED.



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

Date Signed: September 5, 2012

Date Mailed: September 5, 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.

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

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cc:

