

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Claimant

Reg. No.: 2009-12686

Issue No.: 3015

Case No.:

Load No.:

Hearing Date:

March 18, 2009

Bay County DHS

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on March 18, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly close the Claimant's Food Assistance Program (FAP)?

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 a FAP recipient. The group size is three (3).
2. On November 13, 2008, the Claimant reported no income from a self-employment endeavor. (Department exhibit 12)

3. On January 2, 2009, the department received information about the claimant's self-employment income and requested further expense and income information from the claimant.
4. On January 9, 2009, the claimant supplied the department with a profit and loss statement for her self-employment. (Department exhibits 20-23)
5. On January 20, 2009, the department ran a new FAP budget for the claimant using the newly reported income figures and moved to close the claimant's FAP. (Department exhibits 18-19).
6. On January 20, 2009, the department sent the claimant a notice that her FAP was to close. (Department exhibit 24).
7. On January 28, 2009, the claimant requested a hearing.

#### 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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Claimant notified the department of income from her self-employment. The department accepted a profit and loss statement from this business and being unable to apportion income more accurately divided the income shown by the four owners, two of whom are members of the claimant's FAP group.

This information resulted in a total earned income of \$1,908.00. Only 80% of earned income is counted in determining FAP benefits, PEM 550. The department failed to subtract this 20%. Under CFR 273.9 deductions for excess shelter and utilities are also made, PEM 554. The department failed to address these expenses as well.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the Department to refigure the claimant's FAP utilizing income figures supplied by the claimant and deductions allowed under PEM 550 and 554.

/s/  
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Michael J. Bennane  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 04/10/09

Date Mailed: 04/13/09

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.

MJB [REDACTED]

cc: [REDACTED]