

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Claimant

Reg. No.: 2009-25557

Issue No.: 3014

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

July 15, 2009

Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 conducted from Detroit, Michigan on July 15, 2009. The Claimant appeared and testified. [REDACTED], FIM, appeared on behalf of the Department.

ISSUES

Whether the Department properly denied the Claimant's Food Assistance ("FAP") benefits based on Claimant's son living in the home?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. On 3/17/09, Claimant applied for FAP, SER and MA. (Exhibit 1, p. 36-49).
2. Claimant was awarded FAP benefits effective 3/17/09.
3. On her 3/17/09 application, Claimant indicated that her 22 year old son was living in the household. (Exhibit 1, p. 40).

4. A [REDACTED] Bill dated 5/14/09 reveals that the electric bill was in the name of the 22 year old son at Claimant's address. (Exhibit 1, p. 13).
5. Claimant testified that she moved in with her son, but that he was in the process of moving to another location and was not staying or eating at the home.
6. On 6/2009, the Department calculated FAP benefits based on the 22 year old son in the group and utilizing his unemployment income. (Exhibit 1, pp. 19-20). As a result, Claimant's FAP benefits were reduced. (Exhibit 2).
7. The Department received Claimant's hearing request on June 1, 2009.
8. The hearing record was left open until 7/31/09 to allow Claimant to provide additional documentation showing that her 22 year old son was not living in the household. No additional information was provided.

CONCLUSIONS OF LAW

Claimant's hearing request referenced issues with FAP, MA and SER benefits. At the hearing, Claimant testified that the MA and SER issues were resolved. Therefore, the only remaining issue addressed was regarding FAP benefits.

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

FAP benefits are paid based on an individual's family group. The relationship of the people who live together affects whether they must be included or excluded from the group. People included in the group include spouses and children (natural, step and adopted) who purchase and prepare food together. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child has his/her own spouse or child who lives with the group. PEM 212, p. 1. The relationship(s) of the people who live together affects whether they must be included or excluded from the group. In order to determine a group composition, the Department must first determine if the individual must be included in the group. If they are not mandatory group members, the Department must determine if the individuals purchase and prepare food together or separately. PEM 212, p. 1.

In the subject case, the evidence shows that Claimant's 22 year old son was living in the Claimant's household. However, since Claimant's son is 22 years old and not "under 22 years" as required by the regulation, it is not mandatory that Claimant's son be included in the group. The question then revolves around whether the son bought and/or prepared food with Claimant. Understandably, policy is written as above due to the fact that most parents will provide food to their children living in the household. The documentary evidence does tend to suggest that the son was living in the household as Claimant listed him on her FAP application as living in the household, and the son had the household utilities in his name. Furthermore, the record was left open to allow Claimant to provide additional evidence to show that the son was living elsewhere and nothing additional was submitted. The undersigned finds that evidence in the file shows that the 22 year old son was living in the household and sharing in meals.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is **AFFIRMED**.

It should be noted that Claimant can reapply for benefits based on a change in household membership at any time. Claimant may be required to provide evidence showing that her adult son is no longer living in the household or sharing in the purchase or preparation of food upon reapplication.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly reduced Claimant's FAP benefits based on the 22 year old son living in the household.

Accordingly, the Department's FAP eligibility determination is AFFIRMED.

/s/

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/03/09

Date Mailed: 09/08/09

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.

JV/jlg

cc:

[REDACTED]