

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: 2009-28045
Issue No: 3003
Case No: ██████████
Load No: ██████████
Hearing Date:
August 6, 2009
Wayne County DHS

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 the Claimant's request for a hearing. After due notice, a telephone hearing has conducted from Detroit, Michigan on August 6, 2009. The Claimant appeared and testified. Niquel Earl, ES and Cynthia Montgomery, FIM appeared for the Department.

ISSUE

Whether the Department properly denied Claimant FAP benefits based on Claimant living in a for profit group home?

FINDINGS OF FACT

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

1. The Claimant applied for FAP benefits.
2. Claimant lives in an AFC home.
3. On 6/1/09, the Department called the AFC home and spoke with the owner of the home who indicated that the organization is "for profit," Claimant has been in the home since 5/22/09 and that meals are provided in the home.

4. Claimant testified that all household members are pitching in by using their bridge cards.
5. The Department denied FAP benefits on 6/5/09.
6. On June 22, 2009, the Department received the Claimant's hearing request protesting the termination of the FAP benefits.
7. At the hearing, Claimant was given an additional week to provide information regarding the AFC home being nonprofit. No additional information was submitted.

CONCLUSIONS OF LAW

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").

Adult Foster Care Homes must be licensed by DHS or the Office of Children and Adult Licensing (OCAL). In order to be eligible for FAP as an AFC home resident, the home must be nonprofit and licensed for 16 or fewer residents. Nonprofit means IRS tax exempt. PEM 615, p. 1.

In the record presented, the information received by the Department indicates that the AFC home is for profit. Even though the record was left open, Claimant did not provide any information to the contrary. As such, Claimant would not be entitled to food stamps. Rather, the home would be required to provide the food. It may be that others in the household are pitching

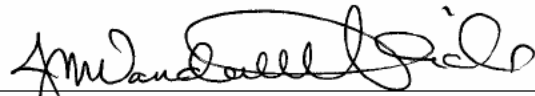
in with bridge cards, but technically they should not be receiving bridge cards if the AFC home is for profit.

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

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly denied FAP benefits.

Accordingly, the Department's FAP determination is AFFIRMED.



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

Date Signed: 09/10/09

Date Mailed: 09/10/09

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/dj

cc:

