

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.: 2009-30514
Issue No.: 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
August 24, 2009
Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 August 24, 2009. The Claimant appeared and testified. [REDACTED] Eligibility Specialist appeared on behalf of the Department.

ISSUE

Did the Department properly deny claimant's application for FAP benefits for June 2009?

FINDINGS OF FACT

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

1. On June 25, 2009 claimant applied for FAP benefits.
2. Claimant was informed that his two children [REDACTED] (DOB [REDACTED]) and [REDACTED] [REDACTED] (DOB [REDACTED]) are active food participation program members for the grantee [REDACTED], the children's mother.

3. Claimant requested a hearing on July 9, 2009 seeking review of the issue regarding of which household the children should be in for the purposes of FAP benefits.
4. A food assistance budget was completed July 27, 2009. (Exhibit 2, p. 1).
5. The Department determined Food Assistance Benefits of \$0 July 2009 on July 27, 2009 due to excess income. (Exhibit 1, p.5).

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”).

The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. PEM 550. Under 7 CFR 273.9, as amended, \$163.00 is deducted from the gross income of FAP recipients in determining FAP grants. The federal regulations define household income to include unemployment compensation benefit income. 7 CFR 273.9(b). Only one person can be the primary caretaker and the other caretaker is considered the absent caretaker. The child is always in the FAP group of the primary caretaker. PEM 212 pg.3. If the child spends virtually half the days in each month, averaged over a twelve-month period with each caretaker, the caretaker who applies and is found eligible first, is the primary caretaker. PEM 212 pg.3

In the present case, even though the parents share joint physical custody, the mother of Claimant's children applied and was found eligible first so the children were included in her household for the purposes of determining FAP benefits. The household had gross earned income of \$1824. The gross income limit for a 1 person household is \$1127. RFT 250. It appears that the department mistakenly used the monthly categorical income limit for enhanced domestic violence authorization which has a limit of \$1,734, although claimant was over this limit as well. RFT 250 Since claimant was over the gross income test; per policy his expenses were not considered.

Claimant understandably questioned why one or both of his children were not included in household when he shares physical custody. However, the Department established that it acted in accordance with departmental policy in determining the Claimant's FAP eligibility. The Department was not required to review Claimant's expenses because he was over the gross income limit. Accordingly, the Department's FAP determination was correct.

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 the Claimant's FAP application.

Accordingly, the Department's FAP determination is AFFIRMED.

/s/ _____
Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/28/09

Date Mailed: 08/31/09

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.

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