

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.: 2009-31641

Issue No.: 3003

Case No.:



Load No.:

Hearing Date:

October 7, 2009

Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Rhonda P. Craig

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 hearing was conducted in-person on October 7, 2009. Claimant and claimant's representative appeared.

ISSUE

Did the department properly budget claimant's FAP grant for June and July 2009?

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 is an FAP recipient in a group of four.
2. Claimant's three children were removed from her home on April 29, 2009.
3. The children were returned on June 29, 2009.
4. The department removed the children from the FAP grant for the period of June 1, 2009 through July 31, 2009 which resulted in a reduced FAP grant for the period.

5. Claimant requested a hearing contesting the removal of the children from the FAP grant.

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).

Under PEM 212 the department must determine who is included in the Food Assistance Program (FAP) group prior to evaluating the nonfinancial and financial eligibility of everyone in the group. To establish FAP group composition the department determines: Who lives together and the relationship(s) of the people who live together.

Whether the people living together purchase and prepare food together or separately, and whether the person(s) resides in an eligible living situation.

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. Living with means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. A person who is temporarily absent from the group is considered living with the group. A person's absence is temporary if: His location is known; and He lived with the group before his absence (newborns are considered to have lived with the group); and There is a definite plan for his return; and the absence has lasted or is expected to last 30 days or less. Under PEM 550 A member add that

increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. When a member leaves a group to apply on his own or to join another group, do a member delete in the month you learn of the application/ member add. If the member delete decreases benefits, use adequate notice for the negative action.

In the present case claimant's children were not in the home for approximately two months (April 29 2009 – June 29, 2009). Claimant's FAP was budgeted without the children for a two month period (June 1, 2009 – July 31, 2009). This Administrative law Judge finds that the department properly budgeted claimant's FAP. The one month lag was due to budget procedures as outlined in policy cited above. Claimant argues that she took food to the children when they were out of her home and therefore the department should have continued to count them in determining her FAP grant. However department policy indicates that only individuals living in the home, except for temporary absences (less than 30 days), may be included in the FAP group. Since the children were out of the home for approximately two months, they should not have been budgeted in the FAP grant for two months. The department's actions were in accordance with department policy and law.

DECISION AND ORDER

The Administrative law Judge, based upon the findings of fact and conclusions of law, finds that the department correctly budgeted claimant's FAP for the months of June and July 2009.

It is ORDERED,

That the department actions be and are hereby AFFIRMED.



Rhonda P. Craig
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/09/09

Date Mailed: 10/09/09

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party with 30 days of the mailing 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 with 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.

RPC/jlg

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