

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: 2009-32970
Issue No: 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 16, 2009
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 held on September 16, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly determine in July, 2009 that the claimant had excess income for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. Claimant was a FAP recipient when she reported full time employed to the department on July 17, 2009. Claimant also receives child support.
2. On July 27, 2009, department computed a FAP budget with claimant's employment income and child support figure derived at by averaging the amount she received in

the previous three months. Claimant had reported an address change but did not verify her rent expense, so such expense was not included in the FAP budget.

3. Department's budget computation resulted in determination that the claimant's net income exceeded the net income limit for FAP. Department then took action to terminate claimant's FAP benefits, but she requested a hearing and department continued FAP benefits pending the outcome of this 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 (DHS or department) 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).

Department's budgeting of claimant's employment and child support income was reviewed with the claimant, and she does not dispute the correctness of such income amounts. Claimant however states she did report her rental expense to her caseworker which was to be \$847 per month effective August 1, 2009. Documentation provided by the department includes a Documentation Record signed by claimant's caseworker on July 27, 2009, noting claimant's new address and estimated rent of \$800 per month effective August 1, 2009. This Record also contains the name and telephone number of claimant's landlord from whom the caseworker apparently obtained this information. As the claimant's caseworker did have the telephone number of claimant's landlord she could have placed another telephone call in order to assist the

claimant with obtaining the new rental amount so it could be included in her FAP budget.

Departmental policy states:

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. PAM, Item 105, p. 9.

The client must obtain required verification, but you must assist if they need and request help. PAM, Item 130, p. 2.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment.

Exception: Alien information, blindness, disability, incapacity, incapability to declare one's residence and, for FIP only, pregnancy must be verified. Citizenship and identity must be verified for clients claiming U.S. citizenship for applicants and recipients of FIP, SDA and MA. PAM, Item 130, p. 3.

FAP Only

Do **not** deny eligibility due to failure by a person **outside** the group to cooperate with a verification request. In applying this policy, a person is considered a group member if residing with the group and is disqualified: See **“Disqualified Persons”** in PEM Item 212. PAM, Item 105, p. 5. 7 CFR 273.1.

Claimant could not have provided her rent information to the caseworker at the end of July, 2009, as it is apparent that even her landlord was not certain of the amount yet due to claimant possibly getting some type of a housing subsidy. Departmental policy quoted above could have been relied upon by the department to either budget \$800 as claimant's rent (i.e. “best available information”), or to contact the landlord several days later in order to determine what the exact amount of rent was to be.

Department notes that the claimant has been overpaid FAP benefits for the months of August and September, 2009, as she received such benefits without her employment income being budgeted due to the hearing request. Department however will re-do claimant's FAP budget for October, 2009 and include rent expense and also day care expenses claimant cited in the hearing if she provides verification of such expenses.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly determined that the claimant had excess income for FAP benefits.

Accordingly, department's action is REVERSED. Department shall:

1. Re-compute claimant's FAP benefits including her shelter expense and any day care expense that she verifies, for October, 2009.
2. If claimant is found to be eligible for FAP benefits for October, 2009, continue such benefits.
3. Notify the claimant of this determination.

SO ORDERED.

/s/

Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 28, 2009

Date Mailed: September 29, 2009

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.

IR [REDACTED]

cc: [REDACTED]