

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.: 2009-33334
Issue No.: 3004
Case No.:
Load No.:
Hearing Date:
September 21, 2009
Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on September 21, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly deny the Claimant's Food Assistance (FAP)?

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 July 27, 2009, the Claimant applied for FAP.
2. On July 27, 2009, the Department denied the claimant's application after determining that the claimant was a parole violator.
3. On August 11, 2009, the Claimant requested a 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 (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).

In the instant case the Department “carefully performed system checks” on the claimant. The department provided copies of the offender tracking system to show that [REDACTED], born [REDACTED], was a “parole absconder.”

DEPARTMENT POLICY

FIP, SDA and FAP

People convicted of certain crimes, fugitive felons, and probation or parole violators are not eligible for assistance. (PEM 203, p.1).

At the hearing the claimant stated that he has never been on parole.

The department relies on department of corrections records without a photograph. This ALJ finds the department’s evidence to be insufficient to deny the claimant FAP. The claimant’s name is a fairly common name. Although the birthdates match, the department failed to tie this man to the record presented.

The department erred in denying the claimant’s FAP.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES and ORDERS the Department to re-register the claimant's FAP, and replace any lost benefits if applicable.



Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/05/09

Date Mailed: 11/05/09

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.

MJB/jlg

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