

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.: 2009-34258

Issue No.: 3002

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

September 30, 2009

Oakland County DHS (4)

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400. 9; MCL 400.37 upon claimant's request for a hearing. After due notice a telephone hearing was held on September 30, 2009 claimant was present along with her daughter [REDACTED] and both testified. [REDACTED] FIM appeared for the department and testified.

ISSUE

Was the department correct in not including claimant's loan payment to her brother when calculating claimant's FAP benefits as of July 1, 2009?

FINDINGS OF FACT

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

- (1) Claimant was a FAP recipient.
- (2) Pursuant to an annual FAP review a new budget was completed on June 24, 2009 reducing claimant's benefit from \$181 to \$56 effective July 1, 2009.

- (3) A loan payment that claimant makes to her brother of \$380 per month was not included as a shelter expense. Previously this payment had been included.
- (4) Claimant's loan obligation to her brother stems from a bank loan he obtained to catch up the back property taxes owed on claimant's home and is secured by her brother's home. Claimant's brother has no ownership interest in Claimant's home.
- (5) Claimant requested a hearing on July 5, 2009 contesting the reduction in FAP.

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").

BEM 554 page9 delineates what can be counted as a housing expense; Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. The expense must be a continuing one.

In the present case, since the payment claimant makes to her brother does not lead to ownership of the shelter, because she already own the home, the loan payment cannot be used as a shelter expense. The department was correct in not counting claimant's loan payment to her brother and claimant's FAP benefit was properly budgeted.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the department was correct in the determination of FAP benefits, and it is ORDERED that the department's decision in this regard be and is hereby AFFIRMED.



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

Date Signed: 10/22/09

Date Mailed: 10/22/09

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.

AM/jlg

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