

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: 2009-8173
Issue No: 3015, 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 22, 2009
Ingham 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 April 22, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly deny claimant's Food Assistance Program (FAP) and Child Development and Care (CDC) application in December, 2008?

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 applied for FAP and CDC on December 4, 2008. Claimant stated that his son resided with him, but the child was currently active on his mother's case in [REDACTED]

[REDACTED].

(2) [REDACTED] then e-mailed [REDACTED] and asked if the child would be removed from his mother's FAP and CDC benefits. Mother's caseworker advised that according to the mother, the child would be back with her in January, so she would be eligible for benefits for him for both December, 2008 and January, 2009. (Department's Exhibit 2).

(3) Claimant had provided his pay check stubs to the department for November and December, 2008. (Department's Exhibits 3-7). On December 4, 2008 department computed a FAP budget based on household of one, using past 30 days income to prospect income. This budget resulted in finding of excess income for the FAP program. (Department's Exhibits 9 and 10).

(4) On December 18, 2008 department computed a FAP budget based on household of 2, and this budget also resulted in finding of excess income. (Department's Exhibits 11 and 12).

(5) On December 22, 2008 department computed yet another FAP budget based on household of 2, using as claimant's income 40 hours per week times [REDACTED] per hour plus [REDACTED] weekly profit sharing, and excluding overtime and monthly/quarterly profit sharing. This budget again resulted in finding of excess income.

(6) Department also completed a CDC budget based on 40 hours per week of work and [REDACTED] per hour, plus [REDACTED] weekly profit sharing. This budget resulted in excess income for CDC.

(7) Department denied claimant's FAP and CDC applications due to excess income. Claimant requested a hearing on December 10, 2008, listing a variety of payments he makes, such as 401K, taxes, mortgage, electric, phone, gas, garbage, child care, food, diapers, clothing, medical, and transportation.

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).

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department budgeted claimant's employment income both by averaging the last 5 paychecks he received in November and December, 2008, and by multiplying his 40 hours of work per week with [REDACTED] per hour that he earned. Department also counted claimant's weekly profit sharing checks. PEM 500. Claimant does not dispute the amount of income he was receiving when FAP and CDC budgets were done, but claims his income has not dropped. Claimant's objection to department's computations are the expenses that he feels were not taken into account.

FAP policy instructs as to what are allowable expenses when determining FAP eligibility for a household like the claimant's without a Senior, Disabled or Senior/Disabled (SDV) member, and states:

FAP ALLOWABLE EXPENSES AND EXPENSE BUDGETING

DEPARTMENT POLICY

This item applies **only** to FAP.

Budget the following expenses to determine net income for FAP eligibility and benefit levels. PEM, Item 554, p. 1.

- . Groups with **no** Senior/Disabled/Veteran (SDV) member:
 - .. dependent care expense up to the maximum in RFT 255, and
 - .. excess shelter up to the maximum in RFT 255, and
 - .. court ordered child support and arrearages paid to non-household members. PEM, Item 554, p. 1.

Therefore, only child care, shelter expenses and court ordered child support are allowable expenses for the FAP program. Claimant's mortgage expense can be allowed in the FAP budget along with his heat/utility expenses. Departmental policy further states:

MANDATORY HEAT AND UTILITY STANDARD

Heat Separate from Housing Costs

A FAP group which has a heat expense or contributes to the heat separate from rent, mortgage or condominium /maintenance payments, must use the Heat and Utility Standard. This standard covers all heat and utility costs except **actual utility expenses, i.e. installation fees**, etc. (See Actual Utilities in this item.) Do **not** prorate the Heat and Utility Standard even if the heat expense is shared.

FAP groups that qualify for the Heat and Utility Standard **do not** receive any other individual utility standards. PEM, Item 554, p. 11.

In claimant's case, department could not even consider any expenses, as his gross monthly income exceeded FAP gross monthly income level as cited in RFT 250, p. 1.

Departmental policy states that a non-SDV FAP group must have income below the gross and net income limits. PEM 550, p. 1. Since the claimant's income was more than such limits, he was not eligible for FAP benefits.

In order to be eligible for CDC a household must pass a gross income limit test also. Claimant's gross monthly income exceeded the monthly gross income limit of [REDACTED] for a group of 2. RFT 270, p. 1. Claimant was therefore not eligible for CDC either.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly denied claimant's FAP and CDC application in December, 2008.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

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

Date Signed: April 28, 2009

Date Mailed: April 30, 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 90 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/db

cc:

