

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: 2009-11399

Issue No: 3015

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 12, 2009

Wayne 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 March 12, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly terminate claimant's Food Assistance Program (FAP) benefits 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 was a FAP recipient when the department completed annual FAP review on her case.
2. On December 1, 2008, department computed a FAP budget that resulted in finding of excess income for FAP program for the claimant (Department's Exhibits #1 and 2).

3. Department budgeted as claimant's household income her chore provider payments of [REDACTED] per month, her child's SSI income of [REDACTED] per month (SSI payment of [REDACTED] plus SSI quarterly state payment of [REDACTED]), and child support payment claimant allegedly received in September, 2008 in the amount of [REDACTED]

4. Department used the Child Support Payment Report dated November 19, 2008, to conclude that the claimant received the child support payment. This report lists the claimant as the Payer and a [REDACTED], as the Payee (Department's Exhibit #3).

5. Department was also in possession of a letter from Department of the Treasury, Financial Management Service, mailed to the claimant on August 29, 2008. This letter states that all or part of claimant's Federal payment has been applied to a debt she owes to Oakland Co. F.O.C., Child Support Unit, that the paying federal agency is Internal Revenue Service, and that the payment is for child support.

6. Claimant testified in the hearing that her tax return was taken to pay child support she owes to Oakland County Friend of the Court as her children resided with their grandmother, [REDACTED] for a period of time.

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).

That the department must budget all income received by a FAP household unless specifically exempt is not in dispute. PEM, Item 500. Claimant states she does receive chore provider income of \$ [REDACTED] per month and that her son receives SSI payment of \$ [REDACTED] per month. Claimant however disputes that she received a child support payment of [REDACTED] in September, 2008 and states that this is the child support taken from her tax refund and sent to Oakland Co. F.O.C. to pay on child support she owes. Documentation provided for the hearing clearly shows that the claimant's testimony is accurate, and department's representative agrees after additional review of the Child Support Payment Report and the letter from Department of the Treasury. Claimant's FAP budget must be therefore re-computed without the child support income, as such was counted in error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly terminated claimant's FAP benefits in December, 2008.

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

1. Re-compute claimant's FAP budget for December, 2008 and not count the child support income she paid out as income to her.
2. If claimant is found eligible for FAP benefits, issue the claimant retroactive such benefits to December 1, 2008, that she was entitled to but did not receive.

3. Inform the claimant in writing of department's determination.

SO ORDERED.

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

Date Signed: March 16, 2009

Date Mailed: March 17, 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.

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