

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: 2009-22298

Issue No: 3002

Case No: ██████████

Load No: ██████████

Hearing Date:

August 3, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 conducted from Detroit, Michigan on August 3, 2009. The Claimant appeared and testified. Denise Payton, FIM, and Mandy Lee, ES Worker appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's Food Assistance ("FAP") benefits?

FINDINGS OF FACT

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

1. The Claimant applied for FAP benefits on March 24, 2009.
2. Claimant initially listed his wife on the application for FAP.
3. Claimant testified that from ██████████ through ██████████, his wife was living back and forth between his home and her mother's home.

4. Claimant's wife was receiving FAP benefits from another district office.
5. The Department indicated that Claimant refused to provide his wife's social security number and the Department, therefore, denied Claimant's application effective 4/7/09. (Exhibit 1, p. 4).
6. Claimant reapplied for benefits in his name only and has been receiving FAP benefits since June, 2009.
7. Claimant testified that his wife has been living with him regularly since [REDACTED].
8. On May 4, 2009, the Department received the Claimant's Request for Hearing protesting the termination of FAP benefits. (Exhibit 1).

#### 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").

The federal regulations define household income to include all earned and unearned benefits. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. PEM 550. Under 7 CFR 273.9 deductions for excess shelter are also made. PEM 554. Household groups that do not have a Senior/Disabled/Veteran (SDV) member are given a standard deduction of \$35.00/month for medical expenses. *Id.* Household groups with a Senior/Disabled/Veteran are

entitled to a deduction for medical expenses of the Senior/Disabled/Veteran, including any expense applied toward a Medicaid deductible. PEM 554 at p. 6.

FAP benefits are paid based on an individual's family group. The relationship of the people who live together affects whether they must be included or excluded from the group. People who must be included in the group include spouses and children (natural, step and adopted) who purchase and prepare food together. Spouses who are legally married and live together must be placed in the same group. PEM 212, p. 1.

In the present case, according to the aforementioned policy on budgeting, Claimant applied for benefits for himself and his wife. Claimant testified that his wife was going back and forth between Claimant and her mother's house. However, when Claimant wife was in his household, she was sharing in the purchase and preparation of Claimant's food. Claimant listed his wife on his food stamp application, and, therefore, the Department was obligated to consider her as part of the group composition. The Department action was in compliance with Department policy.

The claimant's grievance centers on dissatisfaction with the department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich. 237; 294 NW 168 (1940).

Based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly denied the Claimant's FAP benefits.

Accordingly, the Department's FAP eligibility determination is AFFIRMED.

/s/ \_\_\_\_\_  
Jeanne M. VanderHeide  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 08/29/09

Date Mailed: 09/01/09

**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.

JV/dj

cc:

