

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: 2009-2402
Issue No: 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 4, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 hearing was held on February 4, 2009. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly deny Claimant's Food Assistance Program (FAP) application due to excess income?

FINDINGS OF FACT

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

- (1) On August 5, 2008, claimant applied for Food Assistance Program (FAP) benefits.
- (2) On September 3, 2008, claimant was sent notice she was not eligible for Food Assistance Program (FAP) benefits because her total countable income exceeded the income limit for benefits.

(3) On October 6, 2008, claimant submitted a request for 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 (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 hearing packet submitted by the department for this hearing consisted of the Hearing Summary, claimant's request for hearing, and the Eligibility Notice sent to claimant. When the hearing began claimant stated that there was no issue to be resolved regarding Medical Assistance (MA), only the Food Assistance Program (FAP). During this hearing the Food Assistance Program (FAP) budget was reviewed and claimant stated the amounts and sources of gross income were correct. In an effort to accommodate the department's deficiency in preparing for this hearing and reduce the amount of time department representatives had to spend conducting this hearing, the budget was covered verbally and the department representative was to fax a copy of the budget for inclusion in the evidentiary record after the hearing. No copy of the budget has been submitted into evidence by the department.

The department's failure to submit the Food Assistance Program (FAP) budget into evidence leaves this record insufficient to meet the department's burden of showing their action was correct. Huge latitude and flexibility are extended to both recipients and department representatives in developing the evidentiary record supporting their respective positions with

regard to the department's negative action. While the Administrative Law Judges at State Office of Administrative Hearings and Rules are empathetic to the overwhelming volume of work at the local DHS offices, we must abide by the provisions of the Michigan Administrative Procedures Act. There is no provision in that law that allows an Administrative Law Judge to fudge the evidence because department workers are too busy to submit it into the record.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services has failed to submit sufficient evidence to show that it properly denied claimant's Food Assistance Program (FAP) application.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

It is further ORDERED that claimant's application be re-registered to the original application date and re-processed. Claimant must be sent notice of the new determination of her eligibility and afforded another opportunity to request a hearing if she feels the decision is incorrect.

/s/

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 11, 2009

Date Mailed: February 12, 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.

GFH/om

cc:

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