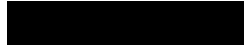


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Claimant

Reg. No.: 2009-27413
Issue No.: 3025/4013
Case No.:
Load No.:
Hearing Date:
August 5, 2009
Oakland County DHS (2)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16409 and MCL 40037; MSA 16.437 upon the Claimants request for a hearing. After due notice, a telephone hearing was held on August 5, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly deny the Claimant's State Disability Assistance (SDA) and Food Assistance (FAP) cases?

FINDINGS OF FACT

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

1. On September 16, 2008, the Claimant applied for FAP and SDA.
2. On January 20, 2009, the Department sent the Claimant an eligibility notice stating that his SDA had been denied for excess income and that his FAP was denied because the

claimant is a resident of an institution that supplies the majority of his meals.

(Department's exhibit 1)

3. On April 8, 2009, the Claimant filed a timely and signed request for a hearing.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, et seq., and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 (formerly known as the Family Independence Agency) 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).

PEM 518 spells out the factors in budgeting for SDA in this instance. In part PEM 518 says:

DEPARTMENT POLICY

FIP and SDA Only

Financial need must exist to receive benefits. Financial need exists when the eligible group passes both the **“Deficit Test”** and the **“Child Support Income Test.”** To perform the deficit test, subtract the **program group’s** budgetable income from the **eligible**

group's payment standard (PEM 515) for the benefit month. To meet the child support income test, the FIP group's countable income plus the amount of certified support (or amount of support to be certified) must be less than the eligible group's payment standard. (PEM 518, p.1)

Here, the claimant's allowed income is \$269.00, there is no dispute that the claimant's income exceeds this amount. Therefore the claimant is not eligible for SDA.

The claimant presented evidence from his doctor stating that the three meals provided by the facility that he lives in is not adequate in dealing with his diabetes.

Residents of Institutions

A person is a resident of an institution when the institution provides the majority of his meals as part of its normal services.

Residents of institutions are **not** eligible for FAP **unless**:

The facility is authorized by the Food and Consumer Service to accept FAP benefits; **or**

The facility is an eligible group living facility as defined in PEM 615; or

The facility is a medical hospital and there is a plan for the person's return home. See "Temporary Absence". (PEM 212, p.6).

In the instant, case the claimant resides in a setting for senior citizens where meals are provided by the facility. The facility does not qualify for the exceptions listed above. This ALJ sympathizes with the situation that the claimant finds himself in but is without the authority to override the above policy.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, AFFIRMS the Department's actions in the instant case.



Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/23/09

Date Mailed: 09/23/09

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 of the rehearing decision.

MJB/jlg

cc:

