

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.: 2009-32788
Issue No.: 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
October 5, 2009
Oakland County DHS (4)

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400. 9; MCL 400.37 upon claimant's request for a hearing. After due notice a telephone hearing was held on October 5, 2009 claimant was present with his son [REDACTED] and authorized representative [REDACTED] and each testified. [REDACTED] ES appeared for the department and testified.

ISSUE

Was the department correct in calculating claimant's FAP benefits as of August 13, 2009 and in determining household member ship for the household?

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 an on going FAP recipient.
- (2) Pursuant to a periodic review claimant's benefits were reduced from \$1052 to \$773 for a group size of 7.

- (3) A new budget was completed on October 12, 2009 and benefits were calculated as \$862 per month for a group size of 7.
- (4) Claimant requested hearing on August 4, 2009 contesting reduction of FAP benefits raising issues regarding two people he believed should have been included in the household and questioning how the department determined the income for the household and calculated benefits.

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”).

HOUSEHOLD COMPOSITION

In the present case, Claimant argued that [REDACTED] and [REDACTED] should be included in the household because they reside or resided in his home. The department presented testimony that both of these children were receiving benefits in other people’s households.

[REDACTED] has a guardian, [REDACTED], and claimant testified that she currently resides with that guardian. The claimant has instituted proceedings to have the guardianship dissolved. Since [REDACTED] does not reside in the household the department is correct in not including her in the household.

██████████ resides with the claimant and is the child of household member ██████████. ██████████ apparently is receiving benefits in the household of her maternal grandmother. Pursuant to department policy a child should be included in the household where the child primarily resides. BEM 212 pg.3 Department policy requires that the department re-evaluate primary caretaker status when a second caretaker applies for assistance for the same child. BEM 212 pg.4. This did not happen in this case.

The Department should take action to close the benefits that ██████████ receives in the household of her maternal grandmother and shall include ██████████ in claimant's household and recalculate benefits with her included in the household.

FAP CALUCLATION

Claimant submitted "Report of Confidential Social Security Benefit Information" dated October 2, 2009 for household member ██████████ that shows that no social security benefits are received for that child. The Department shall recalculate benefits back to the date of redetermination based on ██████████ having no social security benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the department was incorrect in the determination of FAP benefits, and it is ORDERED that the department's decision in this regard be and is hereby REVERSED. The Department shall include Tyaunna Seawright in the household and shall include no social security benefits for household member Jayla L. Nelson.



Aaron McClintic
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/02/09

Date Mailed: 11/02/09

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.

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