

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: 2009-33048
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 15, 2009
Ingham 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 three-way telephone hearing was held on September 15, 2009. Claimant personally appeared and testified from a personal telephone number. Also appearing and testifying on claimant's behalf was her sister

[REDACTED]

ISSUE

Did the department correctly determine the amount of Food Assistance Program (FAP) benefits that the claimant was entitled to receive, resulting in reduction of such benefits?

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 department discovered in June, 2009 that her child support income has been budgeted incorrectly at previous redetermination of her case.

2. Department then computed new FAP budget which resulted in decrease in claimant's benefits.

3. Claimant requested a hearing on department's action on July 27, 2009.

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).

Claimant's sister spoke for the claimant during most of the hearing. Child support income amounts received by the claimant were reviewed and determined to be correctly used in department's new FAP calculation that resulted in FAP decrease of almost \$300 per month. After some discussion it became clear that the claimant and her sister are not in agreement with the possibility that the claimant may have to pay back the amount of FAP benefits she received incorrectly as a result of departments past error. This Administrative Law Judge pointed out that department's policy does address department's errors and requires department take action to recoup any overissued FAP amounts. However, the issue in this hearing is whether the department correctly took action to reduce claimant's FAP benefits, not possible overissuance action by the department that has not even taken place. Department did correctly budget claimant's child support income, resulting in decrease of FAP benefits. As for the potential future overissuance action on part of the department by which the claimant may be required to

repay any FAP benefits she received in the past that she was not entitled to receive due to department's error, the claimant does not have a right to a hearing on this issue at the present time. Administrative Rules governing hearings state:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because their claim for assistance is denied, or to any recipient who is aggrieved by any department action resulting in suspension, reduction, discontinuance, or termination of assistance. Michigan Administrative Code Rule 400.903(1).

As stated, department has not taken recoupment action for any possible overissued FAP benefits at the present time that would result in suspension, reduction, discontinuance, or termination of claimant's FAP benefits. Possible FAP overissuance issue will therefore not be addressed at this time.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly computed the amount of FAP benefits claimant was entitled to receive, resulting in decrease in such benefits.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

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

Date Signed: September 28, 2009

Date Mailed: September 29, 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.

cc:

