

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.: 2009-34610

Issue No.: 1000/3002

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

October 14, 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 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on October 14, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly calculate the Claimant's Food Assistance (FAP), and deny her Family Independence Program (FIP) application?

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 is a FAP recipient.
2. On October 29, 008, the claimant entered the United States as a refugee.

3. On June 16, 2009, the claimant contacted the department with information that she was working 20 hours per week and the department ran a new FAP budget based on this information.
4. On June 16, 2009, the claimant applied for FIP.
5. The department denied the claimant's FIP application.
6. On August 3, 2009, the claimant filed a request for a hearing.
7. At the hearing the claimant and the department agreed that the department would accept documentation of the claimant's earnings and adjust her FAP accordingly.

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 (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).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, et seq. The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, et seq., and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The department cites PEM 630 as the basis for the denial of the claimant's FIP.

RAP ELIGIBILITY PERIOD

RAPC and/or RAPM is available **only** during the eight months immediately following the refugee's date of entry into the U.S. or date adjusted to a qualifying alien status. Month one is the month containing date of entry or date of adjustment to refugee status. (PEM 630, p.1).

Here, the claimant entered the United States as a refugee on October 29, 2008, which is over the eight month deadline for cash assistance. The time line for assistance is for eight months after entering the U.S. as a refugee.

This ALJ finds that the department was correct in denying the claimant's FIP application.

As to the claimant's FAP the law provides that disposition may be made of a contested case by stipulation or agreed settlement. MCL 24. 278(2). In the instant case, the parties reached an accord. The department agreed to accept and include documentation of the claimant's employment and wages and refigure her FAP replacing any lost benefits if appropriate.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, AFFIRMS the department's action on the claimant's FIP application. In relation to the claimant's FAP, the ALJ REVERSES AND ORDERS the department to accept and include documentation of the claimant's employment and wages and refigure her FAP replacing any lost benefits if appropriate.



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

2009-34610/MJB

Date Signed: 12/4/09

Date Mailed: 12/4/09

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.

MJB/jlg

cc:

