

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: 2009-34690
Issue No: 3025
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 6, 2009
Kent 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 telephone hearing was held on October 6, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly determine the amount of Food Assistance Program (FAP) benefits claimant's household was entitled to receive?

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 is a FAP recipient and requested a hearing on September 2, 2009, indicating he was contesting this program.
2. Department indicated in the Hearing Summary that the reason for the hearing was unknown, as the amount of claimant's FAP benefits had not changed.

3. Hearing testimony indicates that the claimant is married but that his wife had arrived in U. S. in December, 2008. Claimant would like his wife added to his FAP case.

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 is currently receiving FAP benefits only for himself, as the hearing testimony reveals that the department has concluded that claimant's wife is not eligible for such benefits. Department's representative explains that claimant's wife has an I-551, Alien Registration Receipt Card (Conditional Resident Alien Card). Departmental policy does list such alien status and indicates that an I-551 is issued for a two-year period (expiration date on the back) to conditional permanent residents such as alien spouses of U.S. citizens/permanent residents. BEM 225, p. 29. Departmental policy further states that aliens with I-551 which class code is other than RE, AM or AS are not eligible for FAP for the first five years in the U.S. BEM 225, p. 26. Claimant's wife's I-551 does not have a class code of RE, AM or AS, and she is therefore not eligible for the FAP program.

Claimant did indicate that his wife is pregnant, and understands that his child, once born, would be eligible to be added to his FAP case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly determined the amount of FAP benefits claimant's household was entitled to receive.

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: October 22, 2009

Date Mailed: October 26, 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.

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