

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.: 2009-36407

Issue No.: 3002

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

October 19, 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 19, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly calculate the Claimant's Food Assistance (FAP)?

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 September 9, 2009, as part of a review, the department reduced the claimant's FAP benefits due to an increase in unemployment benefits.
3. Claimant notified the department that her daughter had returned from college and should be included in her FAP group.

4. The department failed to include her daughter in her FAP group and in the budgeting of the group.
5. On September 15, 2009, the Claimant filed a request for a hearing contesting the department's failure to include her daughter in her FAP group.

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 Claimant does question the accuracy of the FAP budget because her daughter returned from school in May and should have been included in her FAP group. The claimant testified that she contacted her worker in May and at that time informed the department of the addition to her FAP group.

The department offered no contrary evidence.

This ALJ finds that the claimant did inform the department of her daughters return from college.

Parents and Children

Children include natural, step and adopted children.

Parents and their children **under 22 years of age** who live together **must** be in the same group regardless of whether the child has his/her own spouse or child who lives with the group. (PEM 212. p. 1).

Here, the claimant's daughter was 18 years of age at the time in question and should have been included in the claimant's FAP case. I find that the department erred in not doing so.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the Department to accept documentation concerning the claimant's daughter's end date for college, adjust the FAP benefits accordingly, and replace lost benefits, if applicable; back to the daughter's documented leaving college.



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

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:

