

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: 2009-5642
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 29, 2009
Midland County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 hearing was held on January 29, 2009. Claimant personally appeared and testified.

ISSUE

Did the Department act properly in notifying Claimant that her Food Assistance Program (FAP) case would close due to her failure to report her son's earned income?

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 had been receiving monthly FAP benefits in the amount of [REDACTED].
- (2) Claimant's FAP group included her 18-year-old son who lives with Claimant. He is a college student.

(3) A Department worker learned from an automated report that Claimant's son was working. The son works at [REDACTED], an internet communications company. Claimant had not reported his income to the Department.

(4) The Department worker notified Claimant that her case would end on November 25, 2008 due to her failure to report her son's income.

(5) Claimant disagreed with the Department's decision on the grounds that she did not consume any of her son's income. He uses his income for his personal needs and for his education-related expenses. Furthermore, Claimant was unaware that her son's income was to be considered in calculating her FAP eligibility.

(6) The Department received Claimant's hearing request on November 24, 2008.

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).

Federal law requires that FAP recipients meet income eligibility standards to receive benefits:

Income and deductions.

(a) *Income eligibility standards.* Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled

member shall meet the net income eligibility standards for the Food Stamp Program. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program. Households which are categorically eligible as defined in §273.2(j)(2) or 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)). (7 CFR 273.9)

Under PEM 500, all income that is “NOT specifically excluded” must be considered in calculating FAP benefits. (PEM 500, pg.1). Under PEM 212, parents and their children under 22 years of age who live together **must** be in the same group. In this case, Claimant’s son is an 18-year-old college student who lives with her. Therefore, in accordance with Department policy, his wages must be considered in determining the FAP budget. There was no evidence presented that established that the Department erred in calculating Claimant’s FAP budget in November 2008.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted properly.

Accordingly, the Department’s action is AFFIRMED.

/s/

Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 2, 2009

Date Mailed: February 5, 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 of 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.

TLW

cc:

