

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: 2009-8199

Issue No: 3015

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 25, 2009

Tuscola County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's timely request for a hearing. After due notice, a telephone conference hearing was held on February 25, 2009.

ISSUE

Did the DHS and claimant come to an agreed upon settlement at the evidentiary hearing?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) At all relevant times prior to the proposed negative action herein, claimant was a beneficiary of the FAP program with the Michigan DHS.
- (2) On 12/8/08, DHS received a new hire report showing employment with two jobs which were previously unreported.

(3) The DHS issued verification of employment forms and received the information back on 12/12/08. One of the employment forms indicated the employment had specific beginning and ending dates which were overlooked by the worker in budgeting FAP benefits.

(4) The new FAP budget showed a significant reduction in FAP benefits which used the incorrect income amount in calculating eligibility.

(5) On 12/16/08, the DHS issued a notice of FAP reduction.

(6) On 12/26/08, claimant filed a timely hearing request. The negative action was reinstated pending the outcome of the hearing.

(7) The DHS and claimant came to an agreed upon settlement at the evidentiary hearing.

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).

MCL 24.278(2) allows for disposition to be made of a contested case hearing by stipulation or agreed upon settlement. At the evidentiary hearing held on February 25, 2009, claimant and the DHS came to an agreed upon settlement. The terms of the agreement are as follows:

The department stipulates that the worker who calculated FAP eligibility failed to take into account an end date on an

employment verification form. The department further stipulates that the worker will re-examine the income and the FAP budget and make a new determination as to FAP eligibility for this household. The department will then issue proper notice including hearing rights which claimant shall retain should she dispute the outcome of the new calculation.

As noted above, claimant will retain the right to request a hearing on any new eligibility determination within 90 days from the date of the written notice. 7 CFR 273.15(g); and PAM Item 600.

DECISION AND ORDER

The Administrative Law Judge, based upon the above agreed to settlement, ORDERS the department to initiate the actions as set forth in the settlement as specified herein.

/s/

Janice G. Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 3, 2009

Date Mailed: March 4, 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.

JGS 

cc:

