

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: 2010-13551  
Issue No: 3002  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
January 27, 2010  
Ingham 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 January 27, 2010. Claimant personally appeared and testified.

ISSUE

Did the department correctly compute the amount of Food Assistance Program (FAP) benefits that the claimant was entitled to receive for December, 2009 and January, 2010?

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 submitted a Semi-Annual Contact Report on October 26, 2009, listing as members of her household herself, two daughters, and two sons, [REDACTED]. (Department's Exhibits 1 and 2).

2. On November 24, 2009, department began processing claimant's Report and discovered that Lawrence McDonald, claimant's son and FAP group member, had earnings.

3. Department then mailed the claimant a Verification Checklist asking for verification of earnings for her son, and contacted her. Claimant stated at first that her son comes and goes from her house, but subsequently provided a letter from an individual saying that Lawrence has been living with her since February 22, 2009. (Department's Exhibit 8).

4. Department took action to terminate claimant's FAP benefits due to her failure to provide verification of her son's income, but then reversed that decision, removed Lawrence from claimant's case, and approved/continued FAP benefits for the rest of the family.

5. Claimant requested a hearing on December 3, 2009.

#### 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 first stated that she had been on public assistance for 18 years, and that her parents were also on such assistance, and that she always assumed that when a child turns 18 years of age they are automatically removed from all benefits. Claimant explains that this is why she did not report her son [REDACTED] being out of the home since February, 2009. The

Administrative Law Judge explained to the claimant that if the department decided to pursue overissuance of FAP benefits she will have a right to a hearing on that matter when it occurs.

Claimant then questioned the amount of FAP benefits she received for December, 2009 and January, 2010. Claimant's FAP benefits for 6 people, including Lawrence, were \$609 per month through November, 2009. After [REDACTED] was removed for claimant's case for December, 2009 the benefits were reduced to \$319 per month for December, and then went up to \$485 per month for January, 2010. The Administrative Law Judge commented that the FAP reduction for December, 2009 appears to be excessive if it was only due to claimant's household size being changed from 6 to 5 members. Furthermore, FAP benefits were increased to \$485 for January, 2010, which appeared to be an appropriate reduction for removal of one member. After discussing the case at some length, department's representatives checked over December, 2009 FAP budget and discovered that while claimant's income, household size and rent were correctly used, no heat/utility/telephone standard allowance was given in the budget even though the claimant has such obligation. Department stated that this error will be corrected and claimant given a supplement for December, 2009 FAP benefits, the difference between what she received and what she was entitled to receive.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly computed the amount of FAP benefits claimant was entitled to receive for December, 2009, but correctly computed such amount for January, 2010.

Accordingly, department's action is REVERSED for December, 2009. Department shall:

1. Compute a new FAP budget for December, 2009 giving the claimant heat/utility/telephone standard allowance.

2. Issue the claimant a FAP supplement for the month of December, 2009 in the amount of the difference between FAP benefits claimant received and what she should have received.

3. Notify the claimant of this action.

SO ORDERED.

/s/

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Ivona Rairigh  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: February 11, 2010

Date Mailed: February 22, 2010

**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.

IR/om

cc:

[REDACTED]