

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: 2010-14827

Issue No: 3015

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 11, 2010

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 February 11, 2010. The case was originally assigned to Judge Heisler.

ISSUE

Did the DHS properly calculate claimant's FAP benefits?

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 recalculation of claimant's FAP benefits, claimant was a FAP recipient. The DHS had no evidence as to how many individuals were included in claimant's FAP case.

(2) The hearing summary indicates that claimant's case was scheduled for a semi-annual review in November, 2009. The hearing summary indicates that updated verifications triggered the need to recalculate a new FAP budget.

(3) The individual present at the administrative hearing did not have personal knowledge of the case and did not have knowledge of the FAP policy.

(4) The DHS FAP budget shows that the DHS inserted income totaling \$ [REDACTED]. The individual at the administrative hearing did not know how the amount of \$ [REDACTED] was arrived at, which income was counted, how the formula worked, how the FAP budget worked, or what the enhanced multiplier may have been.

(5) The hearing summary indicates the department issued notice on 12/07/09 informing claimant that her FAP benefits will close due to excess income.

(6) The hearing summary indicates that on 12/15/09 claimant filed a timely hearing request and the department reinstated the action pending the outcome of the hearing. Claimant indicated that she is not receiving benefits contrary to the information on the hearing summary. The individual at the administrative hearing did not know and/or did not have any evidence regarding the status of claimant's case.

(7) The department failed to meet its burden of proof.

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).

Applicable policy and procedure to the case herein is found in a number of items. BEM Item 500 is the income policy. It was unclear what the group composition was in this case. Group composition policy is found in BEM Item 212. The department did not know how FAP budgets were calculated. FAP income budgeting and allowable expenses are found in BEM Items 550, 554, and 556. General redetermination policy and procedure is found in BAM, Items 200 and 220. Hearing policy and procedure is found in BAM Item 600.

Under BAM 600—the administrative hearings policy, the department has the burden of proof to make its case. Other general evidentiary and burden of proof issues can be found in the DHS Administrative Hearings Handbook. The purview of an Administrative Law Judge is to review the department's actions and to make a determination whether those actions were consistent under policy and procedure and not contrary to law.

In this case, the department did not know how a FAP budget is calculated, or how claimant's FAP budget was calculated. Nor was the DHS able to testify specifically with regards to claimant's case as to what income was used, how the income that was used in the budget was tallied, what the enhanced multiplier may or may not have been, or if there was an income disregard used prior to the gross income test or not. The department failed to meet its burden of proof. Thus, the department's actions must be reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department's action in this case finding claimant ineligible on the basis of excess income was incorrect.

Accordingly, the department's actions in this case are REVERSED.

The department is ORDERED to immediately reinstate the case if it has not already done so. The hearing summary indicates the department reinstated the case; claimant indicated that she was not eligible or receiving any benefits. The individual at the administrative hearing had no knowledge or evidence as to whether claimant's case was reinstated. The Administrative Law Judge ORDERS the department to review this issue, reinstate the case immediately, and to follow its policy and procedure as would be required where there is a timely hearing request if not already done.

The department is also ORDERED to initiate recalculation of claimant's FAP eligibility and to have a supervisor review the budget. The department is then ORDERED to issue new notice to claimant informing her of the outcome of the new budget and issue a new notice to claimant. Claimant shall retain a right to a hearing for 90 days from the date of the new notice should claimant dispute the outcome of the new calculation.

/s/
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 16, 2010

Date Mailed: February 19, 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.

JS/cv

cc:

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