

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: 2010-24611
Issue No: 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 20, 2010
Calhoun 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, an in-person hearing was held on May 20, 2010. Claimant personally appeared and testified.

ISSUE

Did the department correctly deny claimant's Food Assistance Program (FAP) application in February, 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 applied for FAP on January 28, 2010. Claimant's household consisted of herself, her 18 year old son [REDACTED], and two foster children.

2. Department computed a FAP budget counting claimant's RSDI monthly income of \$1,181, [REDACTED] RSDI monthly income of \$958, and \$800 per month claimant was receiving for her foster children.

3. Department determined that claimant's household **net** income of \$2,795 per month exceeded the FAP **net** income limit for claimant's size household of \$1,838.

4. Department denied claimant's FAP application and she requested a hearing on February 16, 2010. Claimant was initially scheduled for a telephone hearing on April 6, 2010 but then requested an adjournment for an in-person 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (RFT).

Claimant does not dispute the income budgeted by the department in determining her FAP eligibility. Claimant however states that her son was not giving her any money out of his RSDI, and that he no longer lives with her. Departmental policy requires that parents and children under 22 years of age be included in the same FAP group. BEM 212. Therefore, even if claimant's son did not give her any of his income, he still had to be included in her FAP group and his income had to be counted by the department in determining FAP eligibility. Once the

department computed the FAP budget with claimant's household income, such income exceeded the FAP net income for claimant's size household of 4. RFT 250.

Claimant was told that if her son has moved out she should re-apply for FAP, as she may be eligible for this program without her son's income. Claimant does not want to do so and states that "you can keep the money". Claimant is of the opinion that she should be eligible for FAP based on working for many years. Unfortunately that is not the case, as the department and this Administrative Law Judge must apply departmental policy based on federal government's rules and regulations when determining if a person is eligible for assistance or not. The Administrative Law Judge again strongly encouraged the claimant to re-apply for FAP if her son has indeed left her household, as she could not find any error on part of the department in their previous determination of FAP ineligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly denied claimant's FAP application in February, 2010.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

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

Date Signed: May 24, 2010

Date Mailed: May 25, 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/tg

cc:

