

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: 2010-6823
Issue No: 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 6, 2010
Wayne County DHS (19)

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on January 6, 2010. The claimant appeared and testified. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Is the department correct in closing claimant's FAP benefits for excess income?

FINDINGS OF FACT

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

- (1) Claimant submitted an application for Food Assistance and Medical Assistance on May 18, 2009, pursuant to a redetermination.
- (2) For household member [REDACTED] on claimant's application in response to the question "What kind of help does this person need?" answered "None (not applying)".

- (3) On June 25, 2009, the department determined that claimant had excess income and was not eligible for Food Assistance due to excess income.
- (4) Claimant requested a hearing on July 29, 2009, contesting the closure of FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

Department policy states that FAP group composition is established by determining:

1. Who lives together;
2. The relationship(s) of the people who live together;
3. Whether the people living together purchase and prepare food together or separately; and
4. Whether the person(s) resides in an eligible living situation (see Living Situations).

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. First determine if they **must** be included in the group. If they are **not** mandatory group members, then determine if they purchase and prepare food together or separately. BEM 212.

In the present case, claimant and [REDACTED] are not married so whether he should be included in the household is determined by whether they purchase and prepare food together. Claimant credibly testified that they do not purchase and prepare food together. The department

points to claimant's application which does say that household members buy and prepare food together, and asserts that they were correct to rely on the application. However, the application also states "none" in response to question 16, "What kind of help does this person need?" for [REDACTED]. This Administrative Law Judge finds that [REDACTED] should not be included in the household for the purposes of FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the department was incorrect in the determination of FAP benefits, and it is ORDERED that the department's decision in this regard be and is hereby REVERSED. Claimant's FAP benefits shall be reinstated and recalculated using only claimant's income, back to the date of closure May 31, 2009.



Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 20, 2010

Date Mailed: January 21, 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.

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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.

AM/pf

cc:

