

STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]  
[REDACTED]  
[REDACTED]

Reg. No. 2010-22398  
Issue No. 3000  
Case No. [REDACTED]  
Hearing Date: June 28, 2011  
Emmet County DHS

**ADMINISTRATIVE LAW JUDGE:** William A. Sundquist

**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, an in-person hearing was held on June 28, 2011.

**ISSUE**

Was written application for FAP filed with the DHS in November 2009?

**FINDINGS OF FACT**

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

1. On January 25, 2010, the claimant applied for FAP, and was approved on January 29, 2010, and requested a hearing on February 10, 2010.
2. Claimant's representative did not want a hearing on the negative case action above, but he wanted a hearing on an alleged application for FAP filed in November 2009 by the case manager for the Department of Community Mental Health with the DHS receptionist.
3. The case manager and the DHS receptionist were not witnesses at the hearing.
4. The DHS representative at the hearing involved in the case stated that she never received an application in November 2009; she checked with other DHS workers and could not find any application.

### **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).

Facts above are undisputed.

Application means a signed and dated statement on the form prescribed by the department that a person wishes to receive program benefits. PRG, Glossary, page 4.

The representative for the claimant wanted to prove her case by paper notes of the absent case manager, who alleges the November application was given to a DHS receptionist who, also, was not at the hearing.

In a contested case the rules of evidence as applied in a nonjury civil case in Circuit Court shall be followed. MCL 24.275.

A party may cross-examine a witness, including the author of a document, offered in evidence by the DHS. MCL 24.272(4).

This ALJ finds the testimony under oath by the DHS representative more trustworthy and reliable than the proposed hearsay statements by the absent case manager.

Therefore, the filing of a November 2009 application with the DHS has not been established by the necessary, competent, material, and substantial evidence on the whole record.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that a written application for FAP filed with the DHS in November 2009 was not established.

Accordingly, the positive action on January 29, 2010 is UPHELD, and the hearing request based on the alleged November 9 application is DISMISSED.

*William A Sundquist*

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William A. Sundquist  
Administrative Law Judge  
For Maura D. Corrigan, Director  
Department of Human Services

Date Signed: July 6, 2011

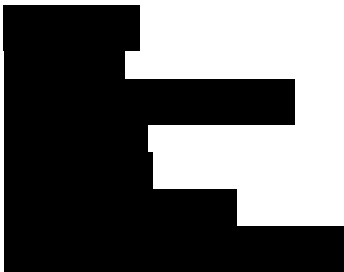
Date Mailed: July 7, 2011

**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.

WAS/tg

cc:

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