

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.: 201027536

Issue No.: 3025

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

May 17, 2010

Macomb County DHS

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 May 17, 2010. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

Was the Department correct in determining Claimant's FAP benefits and in excluding [REDACTED] from the household?

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 was an on-going recipient of FAP benefits.
- (2) On February 1, 2010 Claimant's FAP benefits were reduced from \$169 to \$16 due to receipt of unemployment compensation.

- (3) Claimant receives \$1664 in unemployment compensation per month.
- (4) Claimant's wife, [REDACTED], and his son, [REDACTED], reside with him.
- (5) [REDACTED] and [REDACTED] became resident aliens on September 7, 2005.
- (6) [REDACTED] is not included in Claimant's household for the purpose of determining FAP benefits because she has not been a resident alien for 5 years.
- (7) [REDACTED] was included in the household for the purpose of determining FAP benefits because he is a resident alien under the age of 18.
- (8) Claimant requested a hearing on January 25, 2010 contesting the determination of FAP benefits and the exclusion of [REDACTED].

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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Program Reference Manual ("PRM"). Department policy provides for FAP, a person must be a U.S. citizen or have an acceptable alien status for the designated programs. BEM 225

In the present case, the Department determined that Claimant's FAP benefit would be reduced to \$16 per month effective February 1, 2010. Claimant argued at hearing that his wife, [REDACTED], should be included in the household because she has resided in the United States for more than 5 years. Department policy clearly states the a person must be a resident alien for

more than 5 years in order to be eligible for Food Assistance. [REDACTED] Resident Alien Card clearly shows that she has been a resident alien since September 7, 2005. Therefore the Department was correct to not include [REDACTED] in the household for the purposes of determining Food Assistance benefits because she does not have acceptable alien status pursuant to BEM 225.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department was correct in excluding [REDACTED] from the Claimant's household and in determining Food Assistance Program benefits, and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.

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

Date Signed: June 7, 2010

Date Mailed: June 7, 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.

AM/htw

cc: [REDACTED]

