

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: 2010-39862

Issue No: 3014

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 20, 2010

Ottawa County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on June 9, 2010. After due notice, a telephone hearing was held on Tuesday, July 20, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) eligibility?

FINDINGS OF FACT

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

- (1) The Claimant is a FAP recipient as a group of one.
- (2) The Claimant has a court order granting her parenting time with her children.
- (3) The court order grants the Claimant custody of her children on average less than half of the days in a calendar month, on average, in a twelve-month period.

(4) On June 3, 2010, the Department determined that the Claimant is entitled to a monthly FAP allotment of [REDACTED] based on a group of one.

(5) The Department received the Claimant's request for a hearing on June 9, 2010, protesting the composition of her FAP group during the summer.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons resides in an eligible living situation. BEM 212. The primary caretaker is the person who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a calendar month, on average, in a twelve-month period. BEM 212.

The Claimant receives FAP benefits as a group of one. The Claimant does not dispute the income or expenses the Department used to determine her eligibility for FAP benefits. The Department determined that the Claimant is entitled to a monthly FAP allotment of [REDACTED].

The Claimant has a court order granting her parenting time with her children. The order entitles the Claimant to parenting time during the summer from 10 a.m. on Wednesdays, until

5:00 p.m. on Saturdays. The court order grants parenting time during the school year from Friday after school to 6:00 p.m. on Sunday. The court order also specifies that the parents will split parenting time on certain holidays alternating between odd and even years.

During the summer in non-holiday weeks, the children sleep at the Claimant's home for a total of three days. During the school year in non-holiday weeks, the children sleep at the Claimant's home for a total of two days. The court order grants a total of 79 hours of parenting time per week during the summer months.

The Claimant does not dispute that the court order grants her parenting time that is less than 50% of the calendar year.

The Claimant has custody of her children for less than half of the calendar days each month on average for a twelve-month period. Therefore, the Department has established that it acted in accordance with policy when it determined the Claimant's FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's FAP eligibility.

The Department's FAP eligibility determination is AFFIRMED. It is SO ORDERED.

/s/

Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 26, 2010

Date Mailed: July 27, 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.

KS/vc

cc:

