

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-53679
Issue No.: 3014
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 6, 2010
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 October 6, 2010. The claimant appeared and testified. [REDACTED], FIM and [REDACTED] ES appeared on behalf of the department.

ISSUE

Whether the department properly included the claimant's father's income when calculating the claimant's FAP group budget?

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 had a redetermination on August 11, 2010 at which time she reported a move to her father's residence. Exhibit 1
2. The claimant at the time of the redetermination was under the age of 22. The claimant is currently 20 years of age and continues to live and her father's residence.
3. The claimant's FAP redetermination was completed on August 30, 2010 for a group of three and included the gross income of the claimant's father based on pay stubs submitted by the claimant pursuant to the department's request for verification of income. Exhibit 3 pages 6-9.

4. The claimant did not dispute the pay stubs which were submitted but believed they were not normal income as her father had received overtime during the period.
5. The claimant's housing obligation was \$1733 and the claimant's group paid the heat and utility expenses. Exhibit 4
6. The claimant's FAP budget as calculated by the department is correct.
7. The claimant's FAP case was closed because the claimant was no longer eligible for FAP assistance due to excess income. Exhibit 5 pages 13-16.
8. The claimant's FAP group received total earned income of \$3827 and its net income of \$2470 exceeded the net income limit of \$1526. RFT 260. Exhibit 5.
9. The claimant received a notice of case action on August 30, 2010 closing the claimant's FAP case. Exhibit 6.
10. The claimant timely requested a hearing on September 1, 2010 protesting the closure of her food assistance case. The department's request for hearing on September 2, 2010.

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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 Bridges Reference Manual (BRM).

In the present case the Claimant is disputing the inclusion of the claimant's father's income in the calculation of FAP benefits. The claimant confirmed that the income amount was correct but that the income was higher than normal due to overtime hours being earned during the period analyzed by the department. The amount of the pay stubs was not disputed as they were submitted by the claimant pursuant to a request for verification. In computing earned income the department is required to calculate income based on the prior 30 day period. BEM 505. Based upon the pay stubs provided the department determined that the group's net income exceeded the net income limit and therefore the claimant's FAP case must close. BEM 501.

The claimant also asserted that her father's income should not be included in her FAP budget as they do not prepare meals together and he buys his own food. However, the department was correct to include the claimant's father's income as she currently resides in her father's home and is under the age of 22. BEM 212 is the applicable policy section applied by the department and it provides as follows:

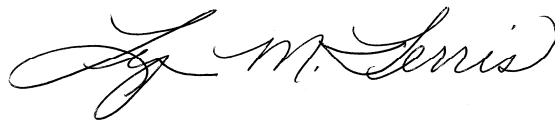
Parents and their children **under 22 years of age** who live together **must** be in the same group regardless of whether the child has his/her own spouse or child who lives with the group.

As suggested at the hearing, the claimant can reapply for FAP benefits and submit current pay stubs covering the last 30 days which do not include overtime pay and request that the department recompute her FAP budget to determine if she and her group are eligible.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law concludes that the Department properly applied policy when including the claimant's father's income when computing the claimant's FAP budget.

Based upon the foregoing the department's closure of the claimant's FAP case based upon excess income is correct and is **AFFIRMED**.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/07/2010

Date Mailed: 10/07/2010

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

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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 of the rehearing decision.

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