

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: 20118236
Issue No: 3014
Case No: [REDACTED]
Hearing Date:
January 3, 2011
Macomb County DHS-12

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 3, 2011. The Claimant appeared and testified. Mr. Childs, Assistance Payments Supervisor appeared on behalf of the Department.

ISSUE

Was the Department correct in reducing Claimant's FAP benefits by removing her son 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 ongoing recipient of Food Assistance Program benefits.
- (2) Household member, [REDACTED] was incarcerated from October 27, 2010 to November 1, 2010.
- (3) The Department received information that [REDACTED] was jailed and took action to remove him from the household.

- (4) November 10, 2010, Claimant was sent notice that [REDACTED] was being removed from the home and that her benefits would be reduced to \$200.
- (5) Claimant's Food Assistance was reduced to \$200 per month, effective December 1, 2010.
- (6) The Department had no information that [REDACTED] would be out of the household for more than 30 days at the time he was removed from the group.
- (7) Claimant requested a hearing on November 22, 2010 contesting the reduction 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 temporary absence is defined as follows: A person who is temporarily absent from the group is considered living with the group. A person's absence is temporary if:

- His location is known
- He lived with the group before his absence (newborns are considered to have lived with the group)

- There is a definite plan for his return
- The absence has lasted or is expected to last 30 days or less. BEM 212

In the present case, the Department received information that Claimant's son was in jail. This information did not state whether he was expected to be in jail for more than 30 days. At the time, Claimant's son had only been in jail for four days. Claimant's son was released from jail after four days. This Administrative Law Judge finds that it was incorrect for the Department to remove Claimant's son from the household because there was no information that he was expected to be absent for more than 30 days and, in fact, he was only absent for four days. BEM 212

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. 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 back to December 1, 2010 including her son, [REDACTED] in the household. Any increase in benefit shall be paid to Claimant in the form of a supplement.



Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 01/19/11

Date Mailed: 01/24/11

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/dj

cc:

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