

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: 2008-32399
Issue No: 3002; 3003; 2001
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 28, 2009
Branch County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on April 28, 2009.

ISSUES

- (1) Was the claimant's FAP allotment computed and allocated correctly?
- (2) Was the claimant's AMP budget properly cut off for excess income?

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 receiving a Food Assistance Program (FAP) allotment budget of \$162.
- (2) Claimant was up for a yearly review in August, 2008.

(3) Claimant submitted her past 30 days of pay stubs for her self-employment income.

(4) Claimant did not submit any expenses for her self-employment income, so the expenses were considered at the standard policy rate of 25%.

(5) Claimant was above the gross income limit for FAP, and her benefits were cut off.

(6) Claimant was above the gross income limit for AMP, and her benefits were cut off.

(7) Claimant requested a hearing on 9-15-08, alleging that she disagreed with the DHS decision.

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).

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is administered by the Department of Human Services (DHS or department) pursuant to MCL 400.10, *et seq.* Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless

specifically excluded. PEM, Item 500. A standard deduction from income of \$135 is allowed for each household. Certain non-reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$300 for non-senior/disabled/veteran households. PEM, Items 500 and 554; RFT 255; 7 CFR 273.2.

Furthermore, all self-employment income must be verified and counted as earned income. Expenses from self-employment income must be verified and can reduce claimant's earned income by the amount of the actual expenses, if verified, or by a standard 25%, if not verified. PEM 500.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the department properly computed the claimant's net income. The gross earned income amount must be counted, which is \$2376 in the current case, after counting claimant's gross self-employment income, and reducing that by the amount of her self-employment expenses. PEM 500. These amounts were verified by claimant's business receipts, Department Exhibit 3. Claimant alleges that these do not take into account the total she spent on gas, or the amount she spent paying an employee. However, there is no indication that claimant ever verified these amounts. While it is true that the Department did not send claimant a Self-Employment Expenses Verification form, claimant did turn in all her business receipts at the time of the initial interview, and so could have discussed her expenses then. She did not, so the Department was correct in using the proscribed automatic 25% expense rate.

Furthermore, the Department assumed a rate of 25% for expenses; from claimant's testimony at the hearing, it is highly doubtful that claimant's actual expenses were beyond this

rate. Additionally, claimant's testimony indicated that even if her actual expenses were beyond this rate, they would not be enough to reduce claimant's self-employment income below the gross income limit with which her food stamps would be disqualified. Therefore, even if the Department did commit error when it used the 25% rate, this error was harmless, and would not have changed the outcome.

The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. The department in compliance with the federal regulations has prepared issuance tables which are set forth at Program Reference Manual, Table 260. The issuance table provides that a household with household size and net income of the claimant is ineligible for an FAP allotment. The Administrative Law Judge has reviewed the budget and found no errors. Claimant herself was unable to point out specifically what parts of the budget she felt were in error. Therefore, the undersigned finds that the FAP allotment was computed correctly.

Regarding the AMP budget, the gross income limit for AMP at the time of the Department's decision was \$298. Claimant's income was far in excess of this limit. Therefore, for that reason, and the reasons described above with regard to claimant's FAP allotment, the undersigned finds that the Department was correct when it cut off claimant's AMP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to reduce the claimant's FAP allotment to \$0 was correct. Furthermore, the Department's decision to stop claimant's AMP benefits was also correct.

Accordingly, the Department's decision is AFFIRMED.

/s/

Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 4, 2009

Date Mailed: May 5, 2009

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

RJC/cv

cc:

