

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: 2009-13886

Issue No: 3002

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 27, 2009

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 conducted on April 27, 2009. The Claimant appeared and testified along with his daughter, [REDACTED]. Patricia Bailey, Program Manager appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective 1/3/09.

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 applied for Food Benefits on 11/17/08.
2. A food assistance budget was completed on January 3, 2009. (Exhibit 1, pp. 25-26).

3. Claimant's daughter testified that Claimant has a household group of five (5) people who all purchase and prepare food together.
4. The Claimant testified that the wage verifications upon which the Department based its decision are accurate, including:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(Exhibit 1, pp. 12-24)

5. The Department denied Food Assistance Benefits on January 3, 2009 due to excess income. (Exhibit 1, p. 27).
6. Claimant objected to the FAP denial and filed this appeal. The Department received the Claimant's Request for Hearing on 1/17/09.

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").

The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. PEM 550. Under 7 CFR 273.9,

as amended, [REDACTED] is deducted from the gross income of FAP recipients in determining FAP grants. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. PEM 550.

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. The phrase purchase and prepare together is meant to describe persons who customarily share food in common. Persons customarily share food in common if:

- They each contribute to the purchase of food; or
- They share the preparation of food, regardless of who paid for it; or
- They eat from the same food supply, regardless of who paid for it.

In general, persons who live together and purchase and prepare food together are members of the FAP group. PEM 212.

In the present case, according to the aforementioned policy on budgeting, for the 1/3/09 budget, Claimant's group had a net monthly gross income of \$4,392.00 from the following sources:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

As a result, Claimant's group income is over the income limits of [REDACTED] per month for a group size of five people. RFT 250. Therefore, Claimant does not qualify for FAP benefits.

Although the Claimant believed he is eligible for FAP benefits, the Claimant did not disagree with the earnings used to calculate his eligibility. The Department established that it

acted in accordance with departmental policy in determining the Claimant's FAP denial effective 1/3/09. Accordingly, the Department's FAP denial was correct.

It is found that the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly calculated the Claimant's FAP allotment.

Accordingly, the Department's FAP eligibility determination is AFFIRMED.

/s/

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/01/09

Date Mailed: 05/04/09

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.

JV/dj

Cc: 