

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: 2009-14208

Issue No: 3015

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 23, 2009

Jackson 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 March 23, 2009. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective February 18, 2009.

FINDINGS OF FACT

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

1. The Claimant was a FAP recipient.
2. On 12/12/08, Claimant's FAP budget was reviewed due to annual recertification procedure.
3. Claimant's income consists of short-term disability pay and child support.

4. Claimant provided proof of short-term disability payments in the amount of [REDACTED] week. (Exhibit 2).
5. The Department also utilized a printout of child support payments to calculate benefits. (Exhibit 3).
6. Claimant reported rent costs in the amount of [REDACTED] month, plus utilities. (Exhibit 4).
7. Claimant testified as to her income amounts and the testimony correlated to the amounts used by the Department in its calculations for December of 2008.
8. Claimant testified that her child support changed to [REDACTED] week for January and February and to [REDACTED] every two weeks as of March.
9. Claimant testified that there are three people in her FAP group.
10. The food assistance budget was run in 3/2009. (Exhibit 1).
11. The Department determined that Claimant had too much income to qualify for FAP and cancelled Claimant's benefit as of 2/19/09. (Exhibit 5).
12. Claimant objected to the FAP calculation and filed this appeal. The Department received the Claimant's Request for Hearing on 2/17/09.

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 SSI benefits and child support. 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, \$135.00 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter are also made. PEM 554. Household groups that do not have a Senior/Disabled veteran (SDV) member are given a standard deduction of \$35.00/month for medical expenses. Id. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

To determine income from child support payments, the average of payments received for the past 3 calendar months should be used unless changes are expected. (PEM 505, p. 4). If there are known changes that will affect the amount of the payments for the future, then a projection based on the past three months should not be used. The Department is required to discuss with the client and document how the child support amount was determined. Id.

In the present case, according to proofs, Claimant's child support payments were determined by the amounts paid in September – December 2008. However, the amount that Claimant actually received was different than what the Department projected. In February, Claimant received [REDACTED]/week or [REDACTED]. As of March, Claimant is receiving, [REDACTED]/month. As the budget date was 3/2009, actual support paid could have been utilized as there were changes that occurred in February and March regarding the actual amount of support paid. Recalculating the budget with either of these child support awards, however, does not change the result.

Scenario 1 (/week child support):

Claimant has a net monthly income of [REDACTED]. This was obtained by subtracting the standard deduction of \$135.00 and the excess shelter amount of \$117.00 from the gross income of [REDACTED] which includes [REDACTED] in child support. The amount of food assistance allotment is established by regulations at 7 CFR 273.10. A household of three people with a net monthly income of [REDACTED] is entitled to a monthly FAP grant of [REDACTED] per month. RFT 260.

Scenario 2 (every 2 weeks child support):

Claimant has a net monthly income of [REDACTED]. This was obtained by subtracting the standard deduction of \$135.00 and the excess shelter amount of \$117.00 from the gross income of [REDACTED] including [REDACTED] in child support. The amount of food assistance allotment is established by regulations at 7 CFR 273.10. A household of three people with a net monthly income of [REDACTED] is entitled to a monthly FAP grant of [REDACTED] per month. RFT 260.

Based upon the foregoing facts and relevant law, 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: 04/01/09

Date Mailed: 04/01/09

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:

