

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: 2009-15004
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 20, 2009
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 May 20, 2009. The Claimant personally appeared and testified. A family independence manager represented the Department.

ISSUE

Did the Department properly compute the Claimant's Food Assistance Program benefits for March 2009?

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 is a FAP benefits recipient for a group size of one. Her monthly benefit allotment for March 2009 was \$63. (Exhibit 1).
- (2) Claimant, a senior, receives RSDI income. Her RSDI income increased to \$1,179 monthly in December 2008. (Exhibit 2).
- (3) Claimant's rent obligation is \$640 monthly.

- (4) Claimant does not contend that the Department erred in the amount counted as her RSDI income or her rent obligation. Claimant, however, requested the hearing because her monthly FAP allotment is not sufficient to buy food for each month due to her various medical conditions that require her to eat certain foods and avoid others. For example, claimant has health conditions that require her to take medication to thin her blood to avoid clotting.
- (5) The Department received Claimant's hearing request on February 19, 2009.

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 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).

Federal law requires that FAP recipients meet income eligibility standards to receive benefits:

Income and deductions.

(a) *Income eligibility standards.* Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for the Food Stamp Program. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program. Households which are categorically eligible as defined in §273.2(j)(2) or 273.2(j)(4) do not have to meet either the

gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)). (7 CFR 273.9)

RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) (AKA SOCIAL SECURITY BENEFITS)

All Programs

RSDI is available to retired and disabled persons, their dependents, and survivors of deceased workers.

Count the gross benefit amount as unearned income. (PEM 500, pg. 29)

Claimant's testimony about her food needs was credible and forthright. Nevertheless, the Department properly followed policy. Under PEM 500, all income that is "NOT specifically excluded" must be considered in calculating FAP benefits. (PEM 500, pg.1). RSDI is not excludable income. Consequently, it is found that the Department properly calculated Claimant's March 2009 FAP budget. The undersigned has reviewed the March 2009 FAP budget and finds it to be correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly computed Claimant's FAP benefits.

Accordingly, the Department's action is AFFIRMED.

/s/ _____
Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/27/09

Date Mailed: 05/28/09

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.

TW/dj

cc:

