

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: 2009-15319
Issue No: 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 2, 2009
Wayne 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 April 2, 2009. The Claimant personally appeared and testified. A family independence manager represented the Department.

ISSUE

Did the Department properly determine Claimant ineligible for Food Assistance Program (FAP) benefits due to 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 filed an application for FAP benefits on January 9, 2009 for a group size of two.
- (2) A FAP budget was completed for February 4, 2009.

- (3) Claimant's income exceeds the gross income limit of \$2,334 for a group size of two. (Exhibits 4 and 5, see also Exhibit 1, FAP income limits effective October 1, 2008).
- (4) Claimant works at CRT Medical Systems in Novi.
- (5) To calculate Claimant's income for the January 2009 budget, the Department considered her pay checks of December 3, 2009 (\$1,294.05) and December 17, 2008 (1,288.01). (See Exhibits 6 and 7).
- (6) Claimant asserted that due to a bankruptcy action her wages are garnished every two weeks in the amount of \$551.46.
- (7) Claimant disagreed with the Department's budget calculation on the grounds that she is a single mother, whose wages are being garnished by an amount of more than \$500 every two weeks, leaving her little to support and feed her children.
- (8) The Department received Claimant's hearing request on February 25, 2009. (Exhibit 8).

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)

GARNISHMENT OR OTHER WITHHOLDING

All Programs

Income includes amounts withheld from income which are:

- Voluntary.
- To repay a debt.
- To meet a legal obligation.

Some examples of amounts which may be withheld, but are still considered income are:

- Income taxes.
- Health or life insurance premiums.
- Medicare premiums.
- Union dues.
- Loan payments.
- Garnishments.
- Court-ordered or voluntary child support payments. (PEM 500, pg. 2)

Under PEM 500, all income that is “NOT specifically excluded” must be considered in calculating FAP benefits (PEM 500, pg.1) and wage garnishment amounts are still considered income for the purpose of budgeting income. Therefore, in this case, the Department properly included Claimant’s income without deducting the amount garnished from her wages in

calculating her budget. The undersigned has reviewed the Claimant's January 2009 budget and finds it to be correct based on the information available to the Department at the time the budget was calculated.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly determined Claimant ineligible for FAP benefits due to excess income.

Accordingly, the Department's action is AFFIRMED.

/s/

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

Date Signed: 04/09/09

Date Mailed: 04/10/09

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.

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