

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: 2009-16602
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 17, 2009
Grand Traverse 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 June 17, 2009.

ISSUE

Was the claimant's FAP allotment computed and allocated correctly?

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 \$107.
- (2) On 2-16-09, claimant alerted DHS to the fact that his rent obligation was being reduced to \$314 per month.

(3) Claimant's FAP budget was re-run and claimant's new budget reduced claimant's FAP allocation to \$21.

(4) Claimant was on simplified reporting, and this rent decrease would not normally fall under his reporting requirements; however, claimant had been told by his caseworker to report all changes within 10 days.

(5) Claimant filed for hearing on 3-6-09, alleging that DHS had informed him incorrectly that he was under an obligation to report his rental obligation.

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).

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.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the department properly computed the claimant's gross income. The gross unearned income benefit amount must be counted as unearned income, which is \$1,025 in the current case, after counting the total member group's RSDI benefits of \$1,025. PEM 500. These amounts were verified by the claimant himself. After adding 80% of claimant's earned income and applying standard deductions, claimant's total adjusted gross income stands at \$920. Claimant's rental obligation decreased to \$314, which, applied to the AGI totals with all utility deductions, leaves claimant with a net income of \$516. 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 eligible for an FAP allotment of \$21. The Administrative Law Judge has reviewed the budget and found no errors. Claimant himself was unable to point out specifically what parts of the budget he felt were in error. Therefore, the undersigned finds that the FAP allotment was computed correctly.

However, claimant argued that he was under no obligation to report the decrease in his rental obligation, due to the fact that claimant was on simplified reporting, and therefore, that decrease should not have counted against claimant until claimant's next redetermination. Claimant argues that the only reason he reported his rental change was because he was informed to do erroneously by his caseworker.

It is true that claimant was under no obligation to report. However, claimant's position has no support in policy. The regulations on simplified reporting, PAM 200, do not state that a claimant must not report changes; it only states that a claimant is under no obligation to report

certain types of changes. Furthermore, PAM 220, Case Actions, states that the Department must process any change that it becomes aware of, regardless of whether it was reported by the claimant. If the Department had become aware of claimant's rental change through the local housing commission, the Department would have been obligated to act within 10 days. PAM 220. The fact that the reporting came from the claimant himself, relying upon faulty information from his caseworker is only unhappy coincidence.

Furthermore, claimant's argument that he relied upon information given by his caseworker, to his detriment, is not an issue that the Administrative Law Judge may rule upon. Administrative adjudication is an exercise of executive power, not judicial power, and thus is restricted in the granting of equitable remedies. *Michigan Mutual Liability Co. v. Baker*, 295 Mich 237; 294 NW 168 (1940).

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 \$21 was 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: July 21, 2009

Date Mailed: July 21, 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 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.

RJC/cv

cc:

