

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: 2009-16660

Issue No: 3003

Case No:

[REDACTED]

Load No:

Hearing Date:

April 22, 2009

Lenawee 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 Claimant's request for a hearing. After due notice, a telephone hearing was conducted from [REDACTED] on April 22, 2009. The Claimant appeared and testified. Michelle Ritche, FIS, appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated the Claimant's Food Assistance ("FAP") benefits.

FINDINGS OF FACT

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

1. The Claimant is a FAP recipient.
2. Claimant was recertified for the period of 3/1/09 to 4/22/11.
3. Prior to a recent review, the Claimant received a monthly FAP allotment of \$140.00.

4. The Claimant receives [REDACTED] per month in [REDACTED] and [REDACTED] per month in [REDACTED]
[REDACTED]
5. Claimant testified that she has incurred medical expenses as follows:
 - a. [REDACTED]/month (Exhibit 2, p. 1)
 - b. [REDACTED] (Exhibit 2, p. 3)
 - c. [REDACTED] incurred at S [REDACTED] pharmacy last year (Exhibit 2, p. 5)Claimant also expects to incur the following medical expenses:
 - d. [REDACTED] (total cost of [REDACTED]) (Exhibit 1, p. 9-11)
 - e. [REDACTED] at [REDACTED] (Exhibit 2, p. 4)
6. The Claimant pays rent in the amount of [REDACTED] per month. Claimant also is responsible for utilities.
7. The Department re-calculated the FAP budget based upon information obtained during the review which resulted in a reduction in the Claimant's FAP allotment. (Exhibit 1, pp. 5-6) to \$124.00 per month.
8. On March 9, 2009, the Department received the Claimant's Request for Hearing protesting the reduction of FAP benefits from the original \$140.00 to \$124.00.

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 RSDI benefits. 7 CFR 273.9(b). Only 80% of earned income is counted in determining FAP benefits. PEM 550. Under 7 CFR 23.9, 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. Medical expenses over \$35.00 are also taken into consideration for groups with one or more SDV (Senior, Disabled or Veteran). PEM 554, p. 1. The expense does not have to be paid to be allowed, but it does have to be incurred. Id. at p. 6.

In the present case, according to the aforementioned policy on budgeting, Claimant has a net monthly income of [REDACTED]. This was obtained by subtracting the standard deduction of [REDACTED] and the excess shelter amount of [REDACTED] from the gross income of [REDACTED]. The amount of food assistance allotment is established by regulations at 7 CFR 273.10. A household of one person with a net monthly income of [REDACTED] as of 3/1/09 was entitled to a monthly FAP grant of \$124.00 per month. RFT 260. The benefit amount increased as of 4/1/09. Furthermore, the medical expenses that Claimant has actually incurred are less than [REDACTED] per month when averaged over the course of the year. Once Claimant incurs the other medical expenses, (c) and (d) listed above, then she can submit the additional expenses for consideration.

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: 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:

