

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: 2009-19348

Issue No: 3002

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 28, 2009

Wayne 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 May 28, 2009. The Claimant appeared and testified along with her sister, [REDACTED]. Lisa Mims-Jones, FIS, appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective 2/19/09.

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 applied for FAP benefits on February 19, 2009.
2. A Food Assistance Budget was compiled dated February 2009. (Exhibit 5).
3. Claimant has a household group of two (2) persons.

4. Claimant produced earnings statements showing gross earned income of \$200.00/week or \$860.00/month. (Exhibit 1).
5. Claimant's son receives SSI in the amount of \$688.00 per month. (Exhibit 2).
6. Claimant testified that she receives child support in the amount of \$85.79/week. (Exhibit 3).
7. The Claimant testified that she is responsible for all utilities in her home.
8. The Claimant testified that her rental obligation at the time of application was \$600.00/month
9. Following the February 2009 budget, monthly FAP benefits were calculated in the amount of \$14.00/month. (Exhibit 5).
10. Claimant objected to the FAP calculation and filed this appeal. The Department received the Claimant's Request for Hearing on April 3, 2009.

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 all earned income. 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. Unearned income includes

SSI payments for family members (PEM 500, p. 33) and child support (PEM 500, p. 10). The average of child support payments received in the past 3 calendar months is used to prospectively calculate child support, unless changes are expected. Amounts that are unusual and not expected to continue should not be included in the calculation.

Under 7 CFR 273.9 deductions for excess shelter are also made. PEM 554. 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.

In the present case, the child support was prospectively calculated using the child support payments received in December, January, and February. Included in those payments were two large amounts of \$389.00 received on 12/22/08 and \$600.00 received on 1/6/09. Looking at what was actually paid, Claimant's payments for February and March only include the regular support of \$85.79/week. Therefore, the undersigned finds that the two large amounts paid on 12/22/08 and 1/6/09 should have been considered unusual and excluded from the prospective budget. The child support amount would then calculate to \$371.00/month rather than \$644.23/month.

According to the aforementioned policy on budgeting, Claimant's budget, utilizing \$371.00/month in child support should have shown unearned income in the amount of \$1059 and a net monthly income of \$1404.00. This was obtained by subtracting the standard deduction of \$135.00 and the excess shelter amount of \$208.00 from 80% of the gross income (\$688.00) plus unearned income of \$1059.00. The amount of food assistance allotment is established by regulations at 7 CFR 273.10. A household of two people with a net monthly income of \$1404.00 is entitled to a monthly FAP grant of \$14.00 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 while the Department did not properly exclude one time payments of child support, the FAP grant upon the new calculation did not change; therefore, the Department properly calculated the amount of 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: 06/04/09

Date Mailed: 06/05/09

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

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