

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: 2009-19727
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 3, 2009
Macomb 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 June 3, 2009. The Claimant appeared and testified. Patricia Bailey, Program Manager appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective 3/17/09.

FINDINGS OF FACT

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

1. The Claimant was a FAP recipient.
2. Claimant started receiving unemployment compensation on 2/24/09. (Exhibit1).
3. A food assistance budget was completed on January 3, 2009. (Exhibit 2).
4. Claimant testified that she has a household group of three (3) people.

5. The Claimant testified that the amounts used for child support and unemployment was accurate.
6. Claimant testified that she has a home equity line that was assigned to her in her divorce judgment that was not taken into consideration in the shelter obligation. The current, interest only payments, are \$195.00/month.
7. The Department terminated Food Assistance Benefits on March 17, 2009 due to excess income. (Exhibit 3).
8. Claimant objected to the FAP denial and filed this appeal. The Department received the Claimant's Request for Hearing on March 26, 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. A FAP group with no Senior/Disabled/Veteran (SDV) must have income below the net income limits. PEM 550.

In the present case, according to the aforementioned policy on budgeting, for the 3/3/09 FAP budget, Claimant's group had a net monthly gross income of \$1990.00 per month from child support and unemployment compensation. As a result, Claimant's group income is over the income limits of \$1907.00 per month for a group size of three people. RFT 250, column "A". Therefore, Claimant would not qualify for FAP benefits.

When determining the Net Income, the Department is instructed in PEM 556 to determine excess shelter costs by using whichever is least - either 50% of the adjusted gross income or the total shelter obligation. In the present case, even if Claimant's home equity line payments were added into the mortgage cost, it would not change the overall calculation. This is because 50% of the adjusted gross income was utilized in the calculation as it was less than the total shelter obligation.

At the hearing, Claimant noted additional expenditures such as special camps for her son and attorney fees. These items are not considered in the federal guidelines for awarding benefits. 7 CFR 273.9. The undersigned appreciates that economic times are difficult, but finds that the Department properly calculated benefits.

The Department has established that it acted in accordance with departmental policy in determining the Claimant's FAP denial effective 3/17/09. Accordingly, the Department's FAP denial was correct.

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: 06/10/09

Date Mailed: 06/16/09

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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