

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: 2009-21095
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 3, 2009
Macomb 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 June 3, 2009. The Claimant personally appeared and testified. A family independence specialist represented the Department.

ISSUE

Did the Department properly compute the Claimant's Food Assistance Program benefits for March 2009?

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 is a FAP benefits recipient for a group size of three, which includes her two children.
- (2) Claimant receives \$42 in monthly FAP benefits. (Exhibit 2)

- (3) Claimant's adult daughter works at a clothing store. Therefore, the daughter's income is included in the group's FAP budget.
- (4) Claimant receives unemployment compensation income.
- (5) The Department included in her March 2008 budget monthly shelter expenses of \$720. Claimant, however, contends that her rent is now more than \$720. At one point during the hearing, Claimant asserted that her rent was \$725 and at another point that it was \$745.
- (6) Claimant disagrees with her monthly FAP benefit amount on the grounds that her shelter expense is more than \$720 and that she received a higher monthly allotment in the past.
- (7) The Department received Claimant's hearing request on March 11, 2009.
(Exhibit 4).

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)

UNEMPLOYMENT BENEFITS

All Programs except FTW

Unemployment benefits include:

- Unemployment compensation benefits (UB) available through the Michigan Unemployment Insurance Agency (UIA) and comparable agencies in other states, and
- Supplemental unemployment benefits (SUB pay) from an employer or other source.

Count the gross amount as unearned income. (PEM 500, p. 36)

SHELTER EXPENSES

Allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. Do not prorate the shelter expense even if the expense is shared. Shelter expenses are allowed when billed. The expenses do not have to be paid to be allowed.

Late fees and/or penalties incurred for shelter expenses are **not** an allowable expense. (PEM 554, p. 9).

Under PEM 500, all income that is “NOT specifically excluded” must be considered in calculating FAP benefits. (PEM 500, pg.1). Unemployment compensation income is not excludable income. Claimant contends that her rental expense is more than \$720 but has not

provided the department with clarification of the shelter expense the Department received earlier this year. Consequently, it is found that the Department properly included the daughter's earned income and Claimant's unemployment compensation income in Claimant's March 2009 FAP budget. In addition, the Department properly included her shelter expense in the budget. The undersigned has reviewed the March 2009 FAP budget and finds it to be correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly computed Claimant's FAP budget for March 2009.

Accordingly, the Department's action is AFFIRMED.

/s/

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

Date Signed: 06/11/09

Date Mailed: 06/15/09

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.

TW/dj

2009-21095/TW

cc:

