

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: 2009-22032
Issue No: 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 15, 2009
Oakland 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 15, 2009. The Claimant appeared and testified. Mrs. Cutean, AP supervisor and Elaine Verecke, AP supervisor in training appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective 3/10/09.

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. On 3/3/09, the Department received notice that Claimant was receiving earned income.
3. A food assistance budget was completed and Claimant was denied benefits on 3/10/09 due to excess income.

4. A second food assistance budget was compiled on 4/27/09 as it was discovered that Claimant had actually stopped getting unemployment and had returned to work. (Exhibit 1, p. 1).
5. Claimant testified that he lives alone.
6. Claimant produced weekly pay stubs in the amounts of \$481.37, \$556.07, \$488.16 and \$456.13 for a total monthly income of \$2,130.36.
7. The Department denied Food Assistance Benefits on March 10, 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 1/17/09.

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 and unearned income. 7 CFR 273.9(b). All monthly income must be converted to a non-fluctuating 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 non-categorically eligible, non-SDV FAP group must have income

below the gross and net income limits. PEM 550, p. 1. The Child support deduction is applied after the gross income test is met. PEM 550.

In the present case, according to the aforementioned policy on budgeting, for the 1/3/09 budget, Claimant's group had a gross monthly income of \$2,130.00 from the Claimant's earned income. As a result, Claimant's group income is over the income limits of \$1,127.00 per month for a group size of one person. RFT 250. The Department actually calculated the budget using the gross income limit of \$1,734.00 which is the limit for enhanced domestic violence authorization. Using either gross income limit, Claimant does not qualify for FAP benefits.

Although the Claimant believed he is eligible for FAP benefits, the Claimant did not disagree with the earnings used to calculate his eligibility. The Department established that it acted in accordance with departmental policy in determining the Claimant's FAP denial effective 3/10/09. 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 closed Claimant's FAP case for excess income.

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: 06/18/09

Date Mailed: 06/22/09

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:

