

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: 2009-22479
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 29, 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 June 29, 2009. The Claimant appeared and testified. Gail Pinckney-Crawford, FIM 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 as material fact:

1. The Claimant was a food stamp recipient since July 2008.
2. A food assistance budget was compiled dated April 14, 2009 as a result of a semi-annual review. (Exhibit 1, pp. 1-2B).

3. Claimant has a household group of five (5) persons.
4. At the time of the semi-annual review, the Department discovered that it had not previously included the household foster care payments in the income.
5. The 4/14/09 food assistance budget, therefore, included \$3,859.00 in unearned income resulting in Claimant being over income for FAP benefits.
6. The Department terminated Claimant's FAP benefits effective 4/30/09. (Exhibit 1, p. 6).
7. Claimant objected to the FAP calculation and filed this appeal. The Department received the Claimant's Request for Hearing on May 19, 2009.
8. Claimant reapplied for FAP on May 8, 2009. At this time, Claimant contested the amount of foster care payments that were previously credited to her group.
9. The Department inquired and received clarification on the amount of foster care received by Claimant. Claimant receives \$598.08 every two weeks. (Exhibit 2)
10. A new food assistance budget was compiled dated June 11, 2009 as a result of Claimant's 5/15/09 application. (Exhibit 3).

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, \$163.00 is deducted from the gross income of FAP recipients, for a group of 5, in determining FAP grants. Unearned income includes child foster care payments for FAP benefits. (PEM 500, p. 9).

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, Claimant's food stamps were correctly budgeted in the 5/15/08 budget. According to the aforementioned policy on budgeting, Claimant has gross unearned income in the amount of \$1688 and a net monthly income of \$987.00. This was obtained by subtracting the standard deduction of \$163.00 and the excess shelter amount of \$538.00 from the gross income. The amount of food assistance allotment is established by regulations at 7 CFR 273.10. A household of five people with a net monthly income of \$987.00 is entitled to a monthly FAP grant of \$496.00 per month. RFT 260.

Based upon the foregoing facts and relevant law, it is found that the Department closed Claimant's FAP case in error on 4/30/09. Had the Department properly inputted the amount of child foster care payments, Claimant would not have been over income in the 4/14/09 budget. Accordingly, the Department's decision to close out Claimant's FAP case is reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's FAP case.

Accordingly it is ORDERED:

1. The Department's 4/30/09 FAP closure is REVERSED.
2. The Department shall reopen the Claimant's FAP case back to the date of closure, delete any negative action as a result of the 4/30/09 closure and supplement the Claimant for any lost benefits she was otherwise entitled to receive.

/s/

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/07/09

Date Mailed: 07/08/09

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:

[REDACTED]