

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: 2009-24167
Issue No: 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 2, 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 July 2, 2009. The Claimant appeared and testified. Angela Clark, Medical Contact Worker, appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant Food Assistance ("FAP") benefits based on excess income effective 5/20/09.

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 applied for Food Assistance Program Benefits in May of 2008.
2. A food assistance budget was completed on May 8, 2009. (Exhibit 1, pp. 1-2).

3. The Claimant testified that the wage verifications from her husband's employment upon which the Department based its decision are accurate.
4. The Claimant testified that her husband was not really living in the household and that she did not benefit from his employment income.
5. However, Claimant testified that her husband's address was legally her address at the time of application.
6. Furthermore, the Social Service Verification relied upon by the department for the husband's income indicates that he was residing at Claimant's address. (Exhibit 2)
7. The Department denied Food Assistance Benefits on May 20, 2009 due to excess income.
8. Claimant objected to the FAP denial and filed this appeal. The Department received the Claimant's Request for Hearing on 5/21/09.

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 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. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. PEM 550. Spouses who are legally married and live together must be in the same FAP group. PEM 212, p. 1.

In the present case, according to the aforementioned policy on budgeting, for the 1/3/09 budget, Claimant's group had a net monthly gross income of \$3,277.00 month. As a result, Claimant's group income is over the maximum income limits of \$2,334.00 per month for a group size of two people. RFT 250. Therefore, Claimant does not qualify for FAP benefits.

Although the Claimant believed she was eligible for FAP benefits, the Claimant did not disagree with the earnings used to calculate her eligibility. The Department established that it acted in accordance with departmental policy in determining the Claimant's FAP denial effective 5/20/09. 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: 07/08/09

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:

