

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.: 2009-25193
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
August 17, 2009
Macomb County DHS (36)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on August 18, 2009. The Claimant appeared along with her authorized representative, [REDACTED]. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated the Claimant's Food Assistance ("FAP") benefits?

FINDINGS OF FACT

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

1. The Claimant submitted an application for food assistance on June 27, 2008.
2. On July 30, 2008, the Claimant's son and authorized representative sent in a letter stating that he charged the Claimant \$400.00 each month for various expenses without a detailed breakdown. (Exhibit 2)

3. The Claimant's son also submitted a shelter verification on behalf of the Claimant indicating that the Claimant was not responsible for any monthly shelter obligation and/or heat and utilities. (Exhibit 1)
4. On August 11, 2008, the Department calculated the Claimant's food allotment as \$189.00 allowing \$300.00 of the \$400.00 as a medical expense and using the Heat/Utility Standard deduction. (Exhibit 3)
5. The following day, the budget was recalculated removing both the medical expenses and heat/utility standard because the amounts were not verified. (Exhibit 4)
6. As a result, the Claimant's FAP allotment was reduced to \$40.00 a month effective September 2008. (Exhibits 4, 7)
7. The Claimant was notified of the case action and requested a hearing. (Exhibits 7, 8)
8. The negative action was deleted in response to the Claimant's timely hearing request.

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").

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. PAM 105 Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. PAM 130

A collateral contact is a direct contact with a person, organization or agency to verify information from the client. PAM 130 When documentation is not available, or clarification is needed, collateral contact may be necessary. PAM 130 The client must obtain the required verification, however, the Department must assist if needed and/or requested. PAM 105; PAM 130 If neither the client nor the Department is able to obtain verification despite reasonable effort, the Department should use the best available information. PAM 130 If no evidence is available, the Department should use its best judgment. PAM 130 Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. PAM 130 If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. PAM 130 A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it. *Id.*

If the client, or his/her family, neighbors, friends, relatives, etc. can provide transportation, they are expected to do so, without reimbursement. PAM 825 In determining a FAP allotment, a Heat and Utility Standard is used whenever a FAP group contributes to the heat expense separate from rent, mortgage, or condominium/maintenance payments. PEM 554 Clients are not eligible for the Heat and Utility Standard when heat is included in the rent payment unless the client is billed for excess heat payments from the landlord, or the client reports that they have received, applied for or will be applying for a Home Heating Credit warrant in the current fiscal year (October through September) for their current address. *Id.*

In the instant case, the Claimant's son submitted a letter to the Department stating that he receives \$400.00 each month from the Claimant for medical transportation, doctor appointments, medication, community visits and prayers, phone bill, television with an international channel

bill, and a portion of the DTE energy bill. The Claimant testified that he previously informed the Department that \$300.00 of the \$400.00 monthly payment was to cover the Claimant's shelter obligation inclusive of all utilities. The Department testified that it repeatedly requested a breakdown of the expenses to no avail. The remaining \$100.00 was to cover medical transportation, international telephone calls and satellite expense. As stated in PAM 825, medical transportation provided for by family is expected without reimbursement. Ultimately, based on the foregoing, it is found that the Department's FAP determination is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's FAP calculation is not upheld.

Accordingly, it is ORDERED:

1. The Department's FAP eligibility determination is REVERSED.
2. The Department shall recalculate the Claimant's budget to include the \$300.00 monthly shelter obligation (which includes utilities) with no further allowable expenses/deductions effective September 2008 in accordance with department policy.
3. The Department shall notify the Claimant of the determination and supplement the Claimant for any lost benefits (if any) she was entitled to receive if otherwise eligible and qualified.

/s/

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/19/09

Date Mailed: 08/20/09

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.

CMM/jlg

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