

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: 2009-26096
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 29, 2009
Macomb 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 29, 2009. The Claimant appeared and testified. Joyce Decker, FIM and Kathleen Dyke, FIS, appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective 5/1/09.

FINDINGS OF FACT

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

1. The Claimant was a FAP recipient up for annual review.
2. On 3/31/09, The Department mailed Claimant a verification checklist asking for records of all income due by 4/10/09. (Exhibit 1, p. 3)
3. Claimant produced pay stubs as follows:

- a. [REDACTED] - \$607.50
- b. [REDACTED] - \$2,502.50
- c. [REDACTED] - \$187.50
- d. [REDACTED] - \$450.00

(Exhibit 1, pp. 6-9).

- 4. In addition, Claimant produced a typed, signed statement indicating his monthly income as follows:

- a. \$782.00/month from retirement savings
- b. \$400.00/month from Claimant's Dad for kids

(Exhibit 1, p. 2).

- 5. A Food Assistance Budget was compiled dated May, 2009. (Exhibit 1, pp. 4-5).
- 6. Claimant has a household group of four (4) persons.
- 7. The Claimant testified that he is responsible for all utilities in his home.
- 8. The Claimant testified that his rental obligation at the time of application was \$1350.00/month.
- 9. Following the May, 2009 budget, monthly FAP benefits were calculated in the amount of \$498.00/month. (Exhibit 1, pp. 4-5).
- 10. Claimant objected to the FAP calculation and filed this appeal. The Department received the Claimant's Request for Hearing on June 1, 2009.
- 11. Claimant testified that his father has since left the country and is no longer paying the \$400.00/month.

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, \$138.00 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9, deductions for excess shelter is 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, according to the aforementioned policy on budgeting, Claimant has a net monthly income of \$564.00. This was obtained by subtracting the standard deduction of \$138.00 and the excess shelter amount of \$446.00 from the gross income of \$1148.00. The amount of food assistance allotment is established by regulations at 7 CFR 273.10. A household of four people with a net monthly income of \$564.00 is entitled to a monthly FAP grant of \$498.00 per month. RFT 260.

Claimant has argued that his father left the county and is no longer providing money to the children in the household. Claimant was advised at the hearing that if his circumstances have changed, he is entitled to report the change and have his FIP benefits recalculated pursuant to Department policy. However, as Claimant reported the income at the time of the May, 2009 budget, the Department was obligated to utilize that income in the budget.

Based upon the foregoing facts and relevant law, 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 amount 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: 08/28/09

Date Mailed: 09/01/09

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]