

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.: 2009-27843

Issue No.: 3003

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

August 3, 2009

Wayne County DHS (82)

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice a telephone hearing was held on August 3, 2009 and claimant was not represented.

ISSUE

Is claimant receiving the correct monthly Food Assistance Program (FAP) allotment?

FINDINGS OF FACT

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

1. Claimant is a FAP recipient in a household of 2 persons.
2. Claimant receives monthly income from RSDI benefits.
3. Claimant has obligations for shelter, utilities and ongoing medical expenses.

4. On December 10, 2008 Department issued a Verification Checklist to claimant requesting documentation of medical expenses and other verifications with a due date of December 29, 2008.
5. Claimant submitted verifications, including medical expenses from April 2008 through December 2008.
6. Department indicates that for the 2009 budget there was a change in how medical expenses were estimated based upon a policy clarification.
7. Department re-calculated the FAP budget February 3, 2009 resulting in a FAP grant of \$14 per month.
8. Department re-calculated the FAP budget again on March 12, 2009 reflecting an increase in RSDI benefits, however, the resulting FAP grant remained at \$14 per month.
9. Claimant testified that the medical expenses are not correct in the 2009 budgets and that the income figure in the March 12, 2009 budget is not correct.
10. Claimant requested a hearing contesting the amount of the FAP grant.

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 RSDI benefit income. 7 CFR 273.9(b). Under 7 CFR 273.9 deductions for excess shelter and medical expenses are also made. PEM 554. At application and re-determination, the department is to estimate the medical expenses for the benefit period based on verified medical expenses, available information about the medical condition and health insurance, as well as changes that can reasonably be anticipated to occur during the benefit period. PEM 554.

In the present case, claimant was a recipient of FAP benefits. Claimant provided verification of approximately 8 months of medical expenses in response to the Department's December 2008 request. Claimant testified there has not been a significant change in the amount of medical expenses compared to the prior year and believes the department failed to consider a significant amount of ongoing medical expenses in the 2009 budget. The department requested verifications in December 2008 but did not re-calculate the FAP budget until February 3, 2009.

The department's hearing summary indicates that there was a change in how medical expenses were estimated for the 2009 budget compared to the 2008 budgets. For the 2008 FAP budget, medical receipts from 2007 and 2008 were used. Pursuant to a policy clarification, the department only used currently incurred or currently billed medical expenses to calculate the excess medical deduction for the 2009 FAP budget. The department did not consider many of the older expenses submitted by claimant in light of the policy clarification. However, the department testified that the case record does not reflect a request for claimant to provide more current medical expense verifications when the budgets were calculated in February and March 2009.

Claimant also testified that the RSDI income used in the March 12, 2009 budget is not correct. Department re-calculated the budget in March because of a report showing claimant's

RSDI benefit had increased. Claimant testified there is occasionally an increase in RSDI benefits for a single month but that the ongoing monthly benefit remains at \$1586. Claimant based the ongoing RSDI benefit amount on the bank statement showing a direct deposit amount of \$1586. However, it was explained to claimant that the department is required to use the gross benefit amount in calculating the FAP budget, which may include taxes or other deductions taken out before the remainder is deposited in her bank account.

The reduction of FAP benefits to \$14 per month may not have been correct. Claimant may have had additional current medical expenses when the budgets were calculated in February and March 2009 and indicates that change RSDI benefits was not an ongoing increase. Accordingly, the department shall accept additional documentation of medical expenses, verify the ongoing RSDI benefit amount and recalculate the FAP budget retroactive to March 2009.

DECISION AND ORDER

The ALJ bases upon the findings of fact and conclusions of law, decides that the claimant may not be receiving the correct monthly FAP allotment.

Accordingly, the Department's FAP eligibility determination is REVERSED. Therefore it is ORDERED that the department accept additional medical expense verifications from claimant, verify the ongoing RSDI benefit amount and recalculate Claimant's FAP budgets retroactive to March 2009 in accordance with this Decision.



Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

2009-27843/CL

Date Signed: 09/10/09

Date Mailed: 09/11/09

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order the claimant may appeal it to the circuit court for the county in which he/she lives. Administrative Hearings, on its own motion, or on request of a party within 30 days of the receipt of this Decision and Order, may order a rehearing.

Administrative Hearings will not order a rehearing on the agency's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original hearing request.

CL/jlg

cc:

