

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.: 2009-28517
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
August 6, 2009
Wayne County DHS (15)

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400. 9; MCL 400.37 upon claimant's request for a hearing. After due notice a telephone hearing was held on August 6, 2009. The claimant appeared and testified. Also present was claimant's friend, [REDACTED]. [REDACTED], ES, appeared on behalf of the department.

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 filed an application for FAP benefits on April 4, 2009 listing himself and his wife on the application.
2. Claimant receives \$674 in gross income per month which consists of SSI income.
3. Claimant had obligations for shelter expenses.

4. The department calculated the FAP budget and determined that claimant is entitled to \$84 in FAP benefits per month. (Exhibit p. 1)
5. 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 both earned and unearned income. 7 CFR 273.9(b). Under 7 CFR 273.9, as amended, \$135 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter expenses are also made. PEM 554. Under PEM 212, Spouses who are legally married and live together must be in the same group.

In the present case, the Eligibility Summary submitted by the department indicates a group size of one person. However, the department testified that claimant did include his wife on the April 4, 2009 application for FAP benefits. The department did not use the correct group size in calculating the FAP benefit allotment as the wife was not included.

DECISION AND ORDER

The ALJ bases upon the findings of fact and conclusions of law decides that the claimant is not receiving the correct monthly FAP allotment and it is ordered that the Department's decision in this regard be and is hereby REVERSED.

Therefore it is ORDERED that the department re-determine eligibility for FAP benefits retroactive to the application date of April 4, 2009 and award benefits to claimant if appropriate.

Colleen Lack

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

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:

