

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. 2009-28543
Issue No. 3002
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date:
August 17, 2009
Oakland County DHS

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 17, 2009. The claimant appeared and testified. Kelly Cutean, AP Supervisor, 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 was an ongoing recipient of FAP benefits in a household of 1 person.
2. Claimant began a new job in February 2009 and submitted a new hire report.
Department Exhibit 1 pg. 1.
3. Claimant is paid \$8.81 hourly but the hours she works have varied.
4. Claimant had obligations for shelter and utility expenses.

5. The department calculated the FAP budget and determined that claimant is entitled to \$16 in FAP benefits per month. Department Exhibit p. 3.
6. 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.

In the present case, the department was unable to submit a copy of the budget at the hearing due to the change over in computer systems. The department indicated the income figure used in the budget would have been based on the information in the new hire report. However, claimant testified that her hours vary and at times have been less than the 20-25 hours per week indicated on the new hire report.

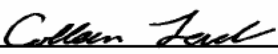
Claimant testified she had obligations for shelter and utility expenses. However, the department testified that no shelter deduction was made in the budget because the shelter verification was not returned. Claimant provided credible testimony that she gave the shelter verification form to her landlord who stated it was completed and returned to the department.

Based upon the foregoing facts and relevant law, it is found that the claimant has not been receiving the correct monthly FAP allotment. The department was unable to submit a budget to show how the FAP grant was calculated, claimants wages may not be correct and no shelter expenses were factored into the budget. The department shall give claimant an opportunity to provide verification of her actual wages since February 2009 as well as shelter and utility expenses. Upon receipt, the department shall re-calculate the FAP budgets retroactive to February 2009.

DECISION AND ORDER

The ALJ, based 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 allow claimant the opportunity to submit verification of her actual hours worked and wages since February 2009 as well as shelter and utility expenses. It is further ORDERED that upon receipt of the verifications, the department will re-determine eligibility for FAP benefits retroactive to February 2009 and award benefits to claimant, if appropriate, in accordance with this decision.



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

Date Signed: 09/14/09

Date Mailed: 09/18/09

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.

CL/dj

cc:

A large black rectangular redaction box covers the names of the recipients in the cc field. The redaction is composed of several overlapping black shapes, including a large horizontal bar and a vertical bar on the left side.