

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.: 2009-29186
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
August 10, 2009
Wayne County DHS (73)

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 August 10, 2009. The Claimant appeared and testified. [REDACTED] FIM and [REDACTED], ES appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective 6/19/09?

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 an active FAP recipient.
2. Following, a yearly redetermination, a Food Assistance Budget was compiled dated 7/2009. (Exhibit 1, p. 2).
3. Claimant has a household group of one (1) persons.

4. Claimant receives RSDI in the amount of \$1076.00/month.
5. Claimant testified that she has additional medical expenses that she pays out of pocket.
6. The Claimant testified that she pays rent in the amount of \$620.00 per month which includes heat. The rent does not include electric or telephone. (Exhibit 1, p. 1).
7. Following the 7/2009 budget, monthly FAP benefits were calculated in the amount of \$16. (Exhibit 1, p. 2).
8. Claimant objected to the FAP calculation and filed this appeal. The Department received the Claimant's Request for Hearing on June 30, 2009.

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 nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. PEM 550. Under 7 CFR 273.9, as amended, a standard deduction (\$135) is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter are also made. PEM 554. 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. FAP groups whose heat is included in their rent or fees are not eligible for the Heat and Utility Standard, unless they are billed for excess heat payments from their landlord, or they report that they received, applied for or will be applying for a Home Heating Credit warrant in the current fiscal year for their current address. PEM 554, p. 12.

In the present case, Claimant's shelter verification reveals that Claimant's heat is included in the rent. Where the heat is included in rent, PEM 554 allows for a deduction for individual utilities such as electric and telephone. In this case, Claimant was given a deduction for electric but not telephone even though Claimant indicated that she turned in verification for the telephone. Furthermore, Claimant is disabled and, as such, is allowed to produce verification of monthly medical expenses incurred above and beyond insured costs. Claimant testified that she had additional ongoing medical expenses. Claimant is entitled to an offset if she has ongoing medical expenses that can be verified. The Department should have asked and allowed Claimant to produce verification for a telephone bill as well as incurred medical expenses and utilized both in the budget calculation of Claimant's FAP benefits.

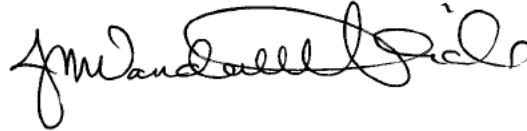
Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department failed to allow Claimant to provide verifications for telephone bill and incurred medical costs when calculating the Claimant's FAP allotment.

Accordingly, the Department's FAP eligibility determination is REVERSED. It is further Ordered:

1. Claimant shall have 10 days from the receipt of this Order to provide verification of telephone charges and medical costs incurred during the previous year.
2. After receipt of Claimant's verifications for telephone and medical charges incurred, the Department shall recalculate the FAP benefits and supplement the Claimant for any lost benefits she was otherwise entitled to receive.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/24/09

Date Mailed: 09/24/09

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/jlg

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