

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. 2009-30674
Issue No. 3002
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date:
August 24, 2009
Macomb 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 24, 2009. The claimant appeared and testified. Robert Gabrell, Payment Analyst, 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 receives \$362 weekly in Unemployment Benefits. Department Exhibit 1 pp 1-2.
3. Claimant had obligations for shelter and utility expenses.
4. Claimant has an obligation for \$419 monthly for child support.

5. Claimant was not able to make the May 2009 child support payment.
6. In June 2009, the department recalculated claimant's FAP budget using an average of the child support payments made over the prior 3 months and determined that claimant is entitled to \$16 in FAP benefits per month.
Department Exhibit pp. 3-4.
7. 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 such as unemployment benefits. 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. A deduction is also made for the actual child support paid under the legal obligation. PEM 554.

In the present case, the department averaged the actual child support payments made in the months of March April and May 2009 to use in the budget calculated June 5, 2009. Claimant paid \$419 in March, \$419 in April and \$0 in May 2009 resulting in an average payment of \$279.

According to the aforementioned policy on budgeting, claimant has a net monthly income of \$875. This was obtained by subtracting the standard deduction of \$135, the excess shelter

amount of \$267 and averaged child support expense of \$279 from the gross income of \$1556.

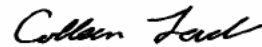
The amount of a monthly food assistance allotment is established by regulations at 7 CFR 273.10.

A household of one person with a net monthly income of \$875 is entitled to a monthly FAP grant of \$16 per month. RFT 260.

Based upon the foregoing facts and relevant law, it is found that the department correctly determined the monthly FAP allotment in the June 5, 2009 budget. Claimant testified there are upcoming changes regarding his income and child support payments. Accordingly, claimant was advised to inform the department of changes as they occur so that the budget could be updated to reflect the changes.

DECISION AND ORDER

The ALJ, based upon the findings of fact and conclusions of law, decides that the claimant is receiving the correct monthly FAP allotment and it is ordered that the Department's decision in this regard be and is hereby AFFIRMED.



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

Date Signed: 09/21/09

Date Mailed: 09/22/09

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.

2009-30674/CL

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:

