

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: 2009-31319
Issue No: 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 31, 2009
Wayne County DHS

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 Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on August 31, 2009. The Claimant appeared and testified. Phil Dew, FIM, and Chris Gardocki, ES appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated the Claimant's Food Assistance ("FAP") benefits?

FINDINGS OF FACT

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

1. The Claimant is an ongoing FAP recipient who was up for recertification.
2. Prior to a recent review, the Claimant received a monthly FAP allotment of \$83.00.

3. The Claimant testified that she receives \$1302.40 per month in RSDI.
4. Claimant is also currently working. Her earned income was reported to be \$175.00 based on June pay stubs. (Exhibit 2).
5. The Claimant testified that her mortgage at the time of recertification, including taxes and insurance was \$677.29. Claimant is also responsible for utilities.
6. Claimant testified that she has incurred additional medical expenses that were taken into consideration in the FAP budget.
7. The Department re-calculated the FAP budget based upon information obtained during the review which resulted in a reduction in the Claimant's FAP allotment. (Exhibit 3, pp. 1-2) to \$20.00 per month.
8. On July 27, 2009, the Department received the Claimant's Request for Hearing protesting the reduction of FAP benefits from the original \$83.00 to \$20.00.
9. As a result of the timely hearing request, Claimant's FAP benefits were not changed pending the hearing.

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 benefits. 7 CFR 273.9(b). Only 80% of earned income is counted in determining FAP benefits. PEM 550. Under 7 CFR 23.9, as amended, \$135.00 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. Medical expenses over \$35.00 are also taken into consideration for groups with one or more SDV (Senior, Disabled or Veteran). PEM 554, p. 1. The expense does not have to be paid to be allowed, but it does have to be incurred. Id. at p. 6.

A group's financial eligibility and monthly benefit amount are determined using either actual income (income that was already received) or prospected income amounts (not received but expected). The Department is instructed to use actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. PEM 505, p. 1. When prospecting income for FAP, the Department should use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. PEM 505, p. 5. If there is a change in expected hours, but no change in the rate of pay, use the expected hours times the rate of pay to determine the amount to budget per pay period. Id.


In the present case, according to the aforementioned policy on budgeting, Claimant has a net monthly income of \$597. This was obtained by subtracting the standard deduction of \$135.00 and the excess shelter amount of \$619.00 and the excess medical from the gross income of \$1442.00. The amount of food assistance allotment is established by regulations at 7 CFR 273.10. A household of one person with a net monthly income of \$597.00 is entitled to a monthly FAP grant of \$20.00 per month. RFT 260.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly calculated the Claimant's FAP allotment.

Accordingly, the Department's FAP eligibility determination is AFFIRMED.


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

Date Signed: 09/28/09

Date Mailed: 09/29/09

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/dj

cc:

