

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.: 2009-31993
Issue No.: 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
November 16, 2009
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 November 16, 2009 claimant was present and testified, [REDACTED] appeared for the department and testified.

ISSUE

Is the department correct in determining claimant's FAP benefit?

FINDINGS OF FACT

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

- (1) Claimant was an ongoing recipient of FAP benefits.
- (2) Claimant submitted a new hire report on June 2, 2009.
- (3) An FAP budget was completed on June 4, 2009 that determined \$18 in benefit for a 2 person household.

- (4) The Department determined that claimant had \$1796 in employment income from [REDACTED] and [REDACTED]
- (5) The Department conceded at hearing that the rent amount of \$240 was incorrect and that the correct amount was \$480.
- (6) Claimant requested a hearing on June 21, 2009 contesting the amount of her FAP benefit.

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 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, \$135.00 is deducted from the gross income of FAP recipients in determining FAP grants.

PEM 505. 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 when shelter expenses in excess of 50 percent of the household’s income after other specified deductions have been allowed. A standard deduction for telephone services may also be allowed. PEM 554.

In the present case, according to the aforementioned policy on budgeting, claimant has a net monthly income of \$921. This was obtained by subtracting the standard deduction of \$135 from the gross income of \$1796. Claimant qualified for an excess shelter deduction as her shelter expenses of \$1030 (\$450 rent plus \$550 utility) was in excess of \$650 (50 percent of \$1301, income after prior deductions were made.) The amount of a monthly food assistance allotment is established by regulations at 7 CFR 273.10. A household of two people with a net monthly income of \$921 is entitled to a monthly FAP grant of \$90 per month. RFT 260.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the department was incorrect in the determination of FAP benefits, and it is ORDERED that the Department's decision in this regard be and is hereby REVERSED. The Department shall re-budget and provide the increased benefits retroactive to July 1, 2009. This will require the department to pay a supplement of \$72 per month.



Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/09/09

Date Mailed: 12/09/09

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.

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