

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████,

Claimant

Reg. No. 2009-32826

Issue No. 3003

Case No. ██████████

Load No. ██████████

Hearing Date:

September 14, 2009

Wayne 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 September 14, 2009. The claimant appeared and testified. Patrice Jones, FIM, 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 2 persons.
2. Claimant was laid off May 7, 2009.
3. Claimant filed for unemployment compensation benefits on May 11, 2009 and was approved for benefits effective May 10, 2009 with a first pay date of May 26, 2009. Department Exhibit 1.

4. Claimant receives unemployment compensation benefits of \$352 bi-weekly.
5. Claimant had obligations for shelter and utility expenses.
6. In May 2009 the department recalculated claimant's FAP budget and determined that claimant is entitled to \$87 in FAP benefits per month. Department Exhibit 2.
7. In June 2009 the department recalculated claimant's FAP budget and determined that claimant is entitled to \$367 in FAP benefits per month. Department Exhibit 2.
8. In August 2009 the department recalculated claimant's FAP budget and determined that claimant is entitled to \$87 in FAP benefits per month. Department Exhibit 2.
9. Claimant requested a hearing on July 21, 2009 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 unearned income, such as the gross amount of unemployment benefits. 7 CFR 273.9(b). Stable income received two weeks is multiplied by 2.15 to take into account fluctuations due to the number of scheduled pays in a month. PEM 505. Under PEM 550 and RFT 255, \$135 is deducted from the gross income of

FAP recipients in determining FAP grants for a group of 3 or less. A FAP group which has a heating/cooling expense or contributes to the heating/ cooling expense separate from rent, mortgage or condominium /maintenance payments, must use the heat and utility standard of \$550. BEM 554 and RFT 255. 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. The maximum excess shelter deduction is \$446. RFT 255.

In the present case, the department did not have a copy of the FAP budget used to determine claimant's FAP allotment and could not print a copy at the time of the hearing because the computer system was down. According to the Unemployment Application Inquiry submitted, the \$352 bi-weekly unemployment benefits were standardized to a monthly income of \$754. Department Exhibit 1. The standard deduction of \$135 is applied resulting in the household's adjusted gross monthly income of \$619.

Claimant testified she has a shelter obligation of \$590 and utility obligations. Shelter expenses of \$1140 are calculated by adding the \$590 shelter obligation plus the \$550 Heat and Utility Standard. When subtracted from 50% of the household income, the excess shelter expenses are \$830, which exceeds the maximum excess shelter deduction of \$446.

According to the aforementioned policy on budgeting, the maximum excess shelter amount of \$446 is subtracted from the adjusted gross monthly income of \$619 resulting in the household's net income of \$173. The amount of a monthly food assistance allotment is established by regulations a 7 CFR 273.10. A household of 2 persons with a net monthly income of \$173 is entitled to a monthly FAP grant of \$315 per month. RFT 260.

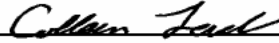
Based upon the foregoing facts and relevant law, it is found that the department did not correctly determine the monthly FAP allotment. Additionally, claimant testified to an ongoing

medical expense of \$50 per month which is part of a payment plan for a \$2,000 bill for services provided to her daughter before Medicaid coverage began that was not covered by Omni Care. The claimant may be entitled to an additional deduction for the ongoing medical expense under PEM 554. The claimant shall be given an opportunity to provide verification of the ongoing medical expense to the department, if not previously submitted. The department shall then re-determine eligibility for FAP benefits retroactive to May 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 provide verification of the ongoing medical expense, if not previously submitted. It is further ORDERED that the department re-determine eligibility for FAP benefits retroactive to May 2009 awarding benefits to claimant, if appropriate, in accordance with this decision.

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

Date Signed: 10/02/09

Date Mailed: 10/05/09

**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.

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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:

