

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.: 2009-33729

Issue No.: 3002

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

November 2, 2009

Wayne County DHS (43)

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 2, 2009 claimant was present and testified, [REDACTED] ES appeared for the department and testified.

ISSUE

Is the department correct in determining claimant's FAP benefits for August 2009?

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 a FAP recipient.
- (2) On July 27, 2009 claimant provided shelter verification showing shelter expense of \$235.
- (3) On August 3, 2009 the Department processed the change in shelter obligation and determined FAP benefits to be \$233 per month for a 4 person household effective August 1, 2009.

- (4) Claimant's FAP benefit was increased to \$298 on October 1, 2009 due to a cost of living increase.
- (5) Claimant received \$80 in benefit for August 2009, \$89 in September 2009. Claimant received a \$209 supplement on October 15, 2009.
- (6) Claimant is entitled to an additional \$88 FAP supplement for August 2009 and September 2009.
- (7) Claimant requested a hearing on August 10, 2009 contesting the amount of her FAP benefits.

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").

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 23.9, as amended, \$188.00 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. Household groups that do not have a Senior/Disabled/Veteran (SDV) member are giving a standard deduction of \$35.00/month for medical expenses. Id. Household groups with a Senior/Disabled/Veteran are entitled to a deduction for medical expenses of the

Senior/Disabled/Veteran, including any expense applied toward a Medicaid deductible. PEM 554 at p. 6.

In the present case, according to the aforementioned policy on budgeting, Claimant has a net monthly income of \$1449. This was obtained by subtracting the standard deduction of \$138.00 and the excess shelter amount of \$34.00 from the gross income of \$1621.00 less the standard medical deductible (\$35). Claimant's gross income comes from \$582 RSDI, \$58 SSI, \$517 child support received on behalf of [REDACTED] and \$464 from RSDI on behalf of [REDACTED].

The amount of food assistance allotment is established by regulations at 7 CFR 273.10. A household of four persons with a net monthly income of \$1449.00 is entitled to a monthly FAP grant of \$223 per month for August and September 2009. RFT 260. Claimant received \$80.00 on August 6, 2009 and \$89.00 on September 3, 2009. This left a shortfall of \$297.00. A supplement of \$209 was paid to the claimant on October 15, 2009. This supplement left a shortfall of \$88.00 that the Department shall pay to the claimant in the form of an additional supplement.

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 and that a supplement of \$88.00 be paid to the claimant.



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

Date Signed: 11/23/09

Date Mailed: 11/23/09

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.

AM/jlg

cc:

A large black rectangular redaction box covers the names and contact information of the recipients listed under the 'cc:' field.