

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. 2009-34096
Issue No. 3002
Case No. ██████████
Load No. ██████████
Hearing Date:
September 29, 2009
Ottawa 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 the claimant's request for a hearing. After due notice a telephone hearing was held on September 29, 2009. The claimant appeared and testified. Dan Boter, Program Manager, appeared on behalf of the department.

ISSUE

1. Did the department properly calculate claimant's 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:

2. Claimant was an ongoing recipient of FAP benefits in a household of one person.

3. On August 4, 2009, the department issued a notice that claimant's FAP benefits would decrease to \$16 per month effective September 2009 based on information the new Bridges system gathered regarding claimant's earned income. (Exhibits pgs. 1-2)

4. Claimant requested a hearing on August 17, 2009 contesting the FAP determination.

5. On August 17, 2009 claimant also met with the Department Representative and verification of his actual earnings were obtained.

6. Claimant had obligations for shelter and telephone expenses.

7. Claimant had obligations for two weekly child support payments of \$89.59 and \$62.93. (Exhibits pgs. 3-4)

8. Claimant had earned income from his wages of \$320 weekly. (Exhibits pgs. 3-4)

9. The department re-calculated claimant's FAP budget and determined that claimant is entitled to a monthly FAP allotment of \$145, effective September 2009. (Exhibits pgs. 6-8)

10. The Department issued a Notice of Case Action August 26, 2009 indicating claimant's FAP benefits would be increased to \$145 per month effective September 1, 2009. (Exhibits pgs. 9-10)

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Program Reference Manuals.

The federal regulations define household income to include gross wages from employment. 7 CFR 273.9(b). Only 80% of earned income is counted in determining FAP benefits. BEM 550. Stable income received weekly is multiplied by 4.3 to take into account fluctuations due to the number of scheduled pays in a month. BEM 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 child support payments and excess shelter expenses are also made. BEM 554.

In the present case, the department testified that the figures used in the first FAP budget effective September 2009 were incorrect. These figures were obtained by the new Bridges system and the department has since re-calculated the FAP budget using verifications they obtained of claimant's actual earnings. The claimant testified that the figures used in the re-calculated budget are accurate.

According to the aforementioned policy on budgeting, claimant has a net monthly income of \$182. Claimant had gross earnings of \$1,419 (\$320 weekly x 4.3). An adjusted gross income of \$344 was calculated by subtracting a deduction of 20% of the earned income (\$284), the child support payments (\$655.84), and the standard deduction of \$135 from the monthly gross earnings. The excess shelter amount of \$162 was then subtracted from the adjusted gross income of \$344 resulting in the calculated net monthly income of \$182.

The amount of a monthly food assistance allotment is established by regulations a 7 CFR 273.10. A household of one person with a net monthly income of \$182 is entitled to a monthly

FAP grant of \$154 per month. RFT 260. Based upon the foregoing facts and relevant law, it is found that the claimant is receiving the correct monthly FAP allotment.

DECISION AND ORDER

The ALJ, based upon the findings of fact and conclusions of law, decides that 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.

/s/

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

Date Signed: September 30, 2009

Date Mailed: September 30, 2009

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.

CL/cv

cc:

