

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.: 2009-34616

Issue No.: 3003

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

October 8, 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 October 8, 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?

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 FAP recipient.
- (2) Pursuant to a periodic review claimant's FAP benefit was determined to be \$113.
- (3) Claimant had \$3899 employment income.
- (4) Household member [REDACTED] has \$1402.88 monthly employment income from her job with [REDACTED].

- (5) Household member [REDACTED] has \$3329.95 gross income. An expense amount of \$832.49 was given because itemized receipts were not submitted resulting in budgetable income of \$2497.46 for [REDACTED].
- (6) Claimant requested hearing on August 11, 2009 contesting the determination of her FAP benefits.
- (7) At hearing, claimant abandoned her appeal with regard to child day care and adult Medicaid.

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 \$2796. This was obtained by subtracting the standard deduction of \$188.00 and the excess shelter amount of \$135.00 from the gross income of \$3899.00 less the standard medical deductible (\$35). The amount of food assistance allotment is established by regulations at 7 CFR 273.10. A household of six persons with a net monthly income of \$2796.00 is entitled to a monthly FAP grant of \$113 per month. RFT 260.

Household member [REDACTED] has self employment income through a business he owns [REDACTED]. In April 2009 he had gross income on \$3329.95. The department pursuant to policy gave an expense amount of \$832.49, 25 % of total proceeds because in their view expenses were not verified. PEM 500 p. 14. Claimant submitted bank records that showed deposits and withdrawals on [REDACTED] business account. Claimant testified that the nature of [REDACTED] business made it difficult to have receipts showing expenses. Records submitted by claimant are not sufficient proof that [REDACTED] had expenses that exceeded the \$832.49 amount given by the Department.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the department was correct in the determination of MA benefits, and it is ORDERED that the department's decision in this regard be and is hereby AFFIRMED.



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

2009-34616/AM

Date Signed: 11/02/09

Date Mailed: 11/02/09

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

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