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: 2009-36492
Issue No: 3002
Case No: ████████
Load No: ████████
Hearing Date:
October 19, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted on October 19, 2009. The Claimant appeared and testified along with his wife, ████████████. Joyce Bacalis, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective 10/1/09?

FINDINGS OF FACT

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

1.   The Claimant was an active FAP recipient.

2.   A Food Assistance Budget was compiled in September, 2009 which did not include Claimant's wife's unearned income.

3. A FAP budget was compiled again in October, 2009. The new FAP benefit amount decreased from $283/month to $98.00/month. (Exhibit 2).

4. Claimant reported a household group of two (2) people.

5. Claimant testified that he and his wife had unearned income from SSI in the amount of $1.413.00.

6. From the wife's income, $96.40 is automatically deducted by the federal government for health insurance premiums. (Exhibit 1).

7. Claimant testified that the State is not paying said premium and that it has been deducted from her SSI check.

8. The Claimant testified that the mortgage is $900.00 per month. Claimant does not pay utilities other than the phone bill.

9. Claimant's wife testified that she has additional monthly medical expenses as follows:

   a. $17.90 for BC/BS prescription plan

   b. $7.60/month for prescription medication copays

   c. $147.00 for yearly doctor visit, which is applied toward the $300 Medicare deductible. Claimant pays $10.00/month.

   (Exhibit 3).

10. The 10/1/09 FAP Bridges FAP budget does not indicate how much was included in the Shelter expense.

11. Claimant objected to the FAP calculation and filed this appeal. The Department received the Claimant's Request for Hearing on September 4, 2009.

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/BEM 550. Under 7 CFR 273.9, as amended, $135.00 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/BEM 554. Id. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant. Medical expenses over $35.00 are also taken into consideration for groups with one or more SDV (Senior, Disabled or Veteran). PEM 554, p. 1. The expense does not have to be paid to be allowed, but it does have to be incurred. BEM 554, p. 6.

When calculating the benefit amount, according to PEM/BEM 556, the Shelter set offs are added together to equal A. The income after deductions is divided by two and equals B. A-B=C. The lesser of C or the maximum shelter amount set forth in RFT 255 will be deducted

from the reduced income in determining the final net amount. The amount of food assistance allotment is established by regulations at 7 CFR 273.10 based on a group's net income.
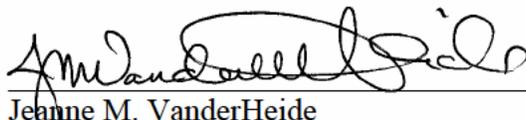
In the present case, according to the aforementioned policy on budgeting, it is clear that the Department did not include the medical expenses incurred by Claimant. Also, it is unclear from the FAP budget what was included in the shelter deduction. Based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not properly calculate the Claimant's FAP allotment.

Accordingly, it is ORDERED:

1. The Department's 10/1/09 FAP calculation is REVERSED.

2. The Department shall recalculate Claimant's FAP benefits as of 10/1/09 including Claimant's wife's monthly medical expenses, including the Medicare premium incurred by Claimant and shelter expenses as testified to by Claimant.

3. The Department shall further supplement the Claimant for any lost benefits he was otherwise entitled to receive.

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed:____11/23/09_____

Date Mailed:____12/04/09_____

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.

JV/dj

cc: