

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: 2009-36908  
Issue No: 3002  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
October 26, 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 received by the Department on May 18, 2009. After due notice, a telephone hearing was conducted on October 26, 2009. The Claimant appeared and testified. Lisa Donel, FIM, appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective July, 2009.

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 May, 2009 which reduced Claimant benefits from \$237.00/month to \$88.00/month.

3. The Department discovered an error in this budget and recalculated effective June, 2009. Claimant did not suffer any loss of benefits at this time.
4. Another Food Assistance budget was compiled in July, 2009.
5. Claimant has a household group of three (3) persons.
6. The following income was utilized in the budget:
  - a. Gross earned income of \$221.99/month.
  - b. Unemployment compensation in the amount of \$452.00 every two weeks.
  - c. Claimant's husband receives SSI in the amount of \$688.00 per month.
7. The Claimant testified that she is responsible for all utilities in her home.
8. The Claimant testified that her rental obligation was \$691.04/month
9. Following the July, 2009 budget, monthly FAP benefits were calculated in the amount of \$133.00/month. (Exhibit 1).
10. Claimant objected to the FAP calculation and filed this appeal. The Department received the Claimant's Request for Hearing on May 18, 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 550. Under 7 CFR 273.9, as amended, \$135.00 is deducted from the gross income of FAP recipients in determining FAP grants. Unearned income includes SSI payments for family members (PEM 500, p. 33) and child support (PEM 500, p. 10). The average of child support payments received in the past 3 calendar months is used to prospectively calculate child support, unless changes are expected. Amounts that are unusual and not expected to continue should not be included in the calculation.

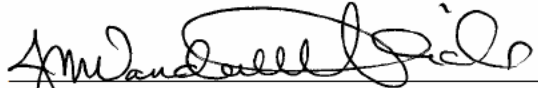
Under 7 CFR 273.9 deductions for excess shelter are also made. PEM 554. Id. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

According to the aforementioned policy on budgeting, Claimant reported \$1659 in unearned income and \$221 in earned income resulting in a net monthly income of \$1309.00. This was obtained by subtracting the standard deduction of \$135.00 and the excess shelter amount of \$391.00 from 80% of the gross income (\$176.00) plus unearned income of \$1659.00. The amount of food assistance allotment is established by regulations at 7 CFR 273.10. A household of three people with a net monthly income of \$1309.00 is entitled to a monthly FAP grant of \$133.00 per month. RFT 260.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, the Department's properly calculated FAP benefits. Accordingly, the Department's July, 2009 FAP benefit award is AFFIRMED.

  
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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:

