

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.: 2009-7318
Issue No.: 3002
Case No.: ██████████
Load No.: ██████████
Hearing Date:
March 4, 2009
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on March 4, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department correctly calculate the Claimant's Food Assistance (FAP), benefits?

FINDINGS OF FACT

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

1. Claimant is a FAP recipient.
2. Claimant receives ██████████ in gross unearned income per month.
3. Claimant has an obligation for shelter, electric and telephone.
4. On October 10, 2008, the Department began an annual review of the claimant's FAP.

5. On October 21, 2008, the Department ran a FAP budget for the Claimant including new income information and awarded a monthly FAP allotment of [REDACTED]
6. On December 10, 2008, the Claimant filed a request for a hearing.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department 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 unearned benefits as income, 7CFR 273.9(b). 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. Under CFR 273.9 deductions for excess shelter are also made, PEM 554.

In the instant case, the Claimant questions the amount of her FAP allotment. The Claimant has an adjusted gross income of [REDACTED] per month. This was obtained by subtracting the standard deduction of \$135.00 and the excess shelter amount of [REDACTED] from the adjusted gross income of [REDACTED]

The amount of a monthly FAP allotment is established by regulations at 7 CFR 273.10. A household of one person with a net monthly income of [REDACTED] is entitled to a monthly FAP grant of [REDACTED] per month. (RFT 260, p. 7)

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, AFFRIMS the Department's actions finding that the claimant is receiving the correct monthly FAP allotment.

/s/
Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/26/09

Date Mailed: 03/26/09

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.

MJB/jlg

cc:

[REDACTED]