

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: 2009-12647
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 18, 2009
Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon Claimant's request for a hearing. After due notice, a hearing was held on March 16, 2009. The Claimant personally appeared and testified. [REDACTED], an interpreter of American Sign Language, appeared and provided interpretation services for Claimant. An eligibility specialist represented the Department of Human Services (Department).

ISSUE

Did the Department properly compute the Claimant's Food Assistance Program (FAP) benefit allotment?

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 is a FAP recipient for a group size of one.

- (2) In January 2009, Claimant's monthly social security income increased from [REDACTED] to [REDACTED]. (Exhibit 4). His monthly social security income was comprised of [REDACTED] plus a [REDACTED] monthly state allotment for a total of [REDACTED] (Exhibit 5).
- (3) The Department worker calculated his budget for February 2009 with the updated social security income, resulting in a new monthly benefit amount of [REDACTED].
- (4) Claimant disagreed with the allotment amount because he had previously received [REDACTED] or more in monthly benefits.
- (5) The Department received his hearing request on January 26, 2009. (Exhibit 1).

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).

Federal law requires that FAP recipients meet income eligibility standards to receive benefits:

Income and deductions.

(a) *Income eligibility standards.* Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for the Food Stamp Program. Households which do not contain an elderly

or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program. Households which are categorically eligible as defined in §273.2(j)(2) or 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)). (7 CFR 273.9)

Under PEM 500, all income that is “NOT specifically excluded” must be considered in calculating FAP benefits. (PEM 500, pg.1). Social security income is not excluded. Therefore, the Department correctly included Claimant’s social security income of [REDACTED] on the February 2009 budget. The undersigned has reviewed the budget for February 2009 and finds it to be correct. Consequently, it is found that Department did not err in computing Claimant’s FAP budget.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly computed Claimant’s FAP benefit allotment.

Accordingly, the Department’s action is AFFIRMED.

_____/s/
Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/20/09

Date Mailed: 03/23/09 dj

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.

2009-12647/TW

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.

TW/dj

cc:

