

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: 2009-13343

Issue No: 3003

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 19, 2009

Macomb 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 March 19, 2009. The Claimant appeared and testified. [REDACTED] [REDACTED] was also present and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective January 12, 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 has been receiving FAP benefits.
2. The Department received information from the OIG that Claimant's home is owned by Claimant's father who pays the mortgage and all utilities. Id.
3. As a result of the above mentioned investigation, the Department recalculated Claimant's FAP benefit with no rent or utility cost deductions on January 12, 2009. (Exhibit 1, p. 2).
4. The Department then reduced Claimant's FAP benefits from [REDACTED]/month to [REDACTED]/month.
5. Claimant testified at the hearing that she and her father are listed jointly on the deed of the house where she lives.
6. Claimant testified that her father is the sole person listed on the mortgage.
7. Claimant further testified that she is obligated to pay rent and utilities to her father on a monthly basis.
8. Claimant testified that her family of three living in the home consists of only herself and her children.
9. Claimant produced a letter signed by her father, [REDACTED], indicating that Claimant is obligated to pay rent in the amount of the current mortgage. The letter further indicates that any unpaid rent will be deducted out of Claimant's future disability or workers compensation award. (Exhibit 2).
10. Claimant objected to the FAP calculation and filed this appeal. The Department received the Claimant's Request for Hearing on January 26, 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 unemployment compensation benefits. 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. Under 7 CFR 273.9 deductions for excess shelter are also made. PEM 554. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

Shelter expenses are allowed when the FAP group has a shelter expense or contributes to the shelter expense. “Shelter expenses are allowed when billed. The expenses do **not** have to be paid to be allowed.” PEM 554 at p. 9. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. Housing expenses include rent, mortgage . . . or other payments leading to ownership of the shelter occupied by the FAP group. The expense must be a continuing one. Allowable verification sources for shelter expenses include “mortgage, rental or condo maintenance fees contracts or a statement from the landlord, bank or mortgage company.” PEM 554 at p. 10.

In the present case, according to the aforementioned policy on budgeting, Claimant has a net monthly income of [REDACTED] for a group of three. This was obtained by subtracting the standard deduction of \$135.00 from the gross income of [REDACTED]. No excess shelter was deducted in coming to this net monthly income.

However, Claimant testified that she is co-owner of the house and is expected to make rent payments. This was supported by the letter written by Claimant's father (Exhibit 2) indicating that Claimant is expected to make rent payments and that rent payments will be deducted from Claimant's future disability or workers compensation awards. The undersigned finds that the rent obligation is continuing and that the letter from [REDACTED] qualifies as acceptable verification. Therefore, this Administrative Law Judge finds that the evidence in this case indicates that Claimant has shelter expenses that meet the requirements of PEM 554. These shelter expenses should be included in Claimant's FAP calculation.

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 findings of fact and conclusions of law, finds that there was insufficient evidence presented to affirm the Department's actions.

Accordingly, it is ORDERED:

1. The Department's January 12, 2009 FAP eligibility determination is REVERSED.
2. The Department shall recalculate the Claimant's FAP allotment from January 2009 through the present to include the Claimant's shelter expense and supplement the Claimant for any lost benefits she was otherwise eligible to

receive in accordance with department policy.

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

Date Signed: 03/26/09_____

Date Mailed: 03/27/09_____

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:

[REDACTED]