

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: 2009-13371

Issue No: 3002

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 23, 2009

Genesee 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 23, 2009. The Claimant personally appeared and testified. The Department was represented by two eligibility specialists.

ISSUE

Did the Department properly compute the Claimant's Food Assistance (FAP) benefits?

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. Her FAP group size is three. Claimant had received [REDACTED] in monthly benefits.
- (2) On October 15, 2008, the Department worker calculated a November 2008 budget for Claimant that included [REDACTED] in unemployment benefits that she received from [REDACTED] through [REDACTED]. (See Exhibit 1, pg. 2).

- (3) The November 2008 budget also included [REDACTED] in income for a group member's employment at a [REDACTED].
- (4) Claimant was also employed at [REDACTED].
- (5) The addition of Claimant's unemployment compensation income resulted in a monthly allotment of [REDACTED] for November 2008. (Exhibit 1).
- (6) On December 5, 2009, the Department sent Claimant a Verification Checklist, seeking verification of employment, DHS-38. (Exhibit 2).
- (7) The verification of employment was returned to the Department on December 19, 2008. The Department calculated a new budget for January 2009. (Exhibit 5). The January 2009 budget included Claimant's employment income of [REDACTED] unemployment income of [REDACTED], and the group member's employment income from [REDACTED] in the amount of [REDACTED]. (See Exhibit 5, pg 2).
- (8) Claimant's adjusted gross income was [REDACTED] for the January 2009 budget. (Exhibit 5). Her monthly allotment was [REDACTED].
- (9) Claimant disagreed with her monthly allotment amount on the grounds that the Department used the wrong income amount for her employment income and for the group member's income from [REDACTED].
- (10) The Department received Claimant's hearing request on January 27, 2009.

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). The Department properly included in Claimant’s unemployment income, her earned income from [REDACTED], and the group member’s income from [REDACTED]. Although Claimant disagrees with the amount of employment income from [REDACTED] and [REDACTED] on the grounds that the Department used income figures from previous months, Claimant had not provided the Department with updated income figures. Therefore, the Department used the income figures available to the Department at the time the budgets were calculated. Under these circumstances, it is found that the Department did not err in calculating the Claimant’s budgets for November 2008, December 2008, and January 2009.

The undersigned has reviewed the Claimant's budgets for November 2008 and January 2009 and finds them to be correct.

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 benefits.

Accordingly, the Department's action is AFFIRMED.

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

Date Signed: 03/31/09

Date Mailed: 03/31/09

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.

TW/dj

cc:

[REDACTED]