

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: 2009-14259
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 23, 2009
Wayne 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. An eligibility specialist and a family independence manager represented the 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 was a FAP recipient for a group size of three.
- (2) On December 2, 2008, the Department sent Claimant a re-determination application and a Verification Checklist. The checklist requested a Verification of

Employment form, DHS-38, and pay stubs for the past 30 days. The deadline for providing these documents was December 12, 2008. (See Exhibit 1).

- (3) Claimant did not provide the requested information by the due date. As a result, the Department sent Claimant an Eligibility Notice that notified him that his monthly benefit allotment would be [REDACTED] effective December 2008. (Exhibit 3).
- (4) Claimant had been laid off from his job at [REDACTED], an automotive supplier, effective [REDACTED]. (Exhibit 9).
- (5) On December 23, 2008, Claimant provided the Department with his verification that he had been laid off from his job at [REDACTED]. The Department also received verification that he received unemployment benefits of [REDACTED] bi-weekly, [REDACTED] monthly. In addition, Claimant provided verification that his monthly shelter expense was [REDACTED].
- (6) The Department worker included the shelter expense and his unemployment benefits in calculating his February 2009 budget, which resulted in a monthly benefit amount of [REDACTED]. (Exhibit 10). Prior to December 23, 2009, Claimant had not provided verification of his shelter expense.
- (7) On January 22, 2009, the Department sent Claimant notice that his monthly benefit allotment would be [REDACTED] effective February 2009. (Exhibit 11).
- (8) Claimant disagreed with the fact that he did not get benefits in December 2008 and January 2009.
- (9) The Department received his hearing request on February 6, 2009. (Exhibit 13).

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). Unemployment income is not excluded. Therefore, the Department correctly included Claimant’s monthly unemployment income of [REDACTED] on the February 2009 budget. In addition, because on December 23, 2008 Claimant had provided

documentation of his shelter expense and his employment verification form that stated he was laid off effective [REDACTED], the Department worker included the shelter expense, removed his earned income due to the layoff on the February 2009 budget. The result is that Claimant's February 2009 budget resulted in a monthly FAP benefit allotment of [REDACTED]. It is found that Claimant had not provided the employment verification and shelter expense verification until December 23, 2008, which was past the December 12, 2008 deadline.

Under the circumstances, the Department acted properly in not calculating Claimant's budgets based on the information available to it at the time the budgets were calculated. The undersigned has reviewed the budget for January 2009 and February 2009 budgets and finds both to be correct. Consequently, it is found that Department did not err in computing Claimant's FAP budgets.

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: 03/31/09

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:

