

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: 2009-14691

Issue No: 3002

Case No: ██████████

Load No: ██████████

Hearing Date:

April 1, 2009

Jackson 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 Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on April 1, 2009. The Claimant appeared and testified. Also present was Claimant's daughter, ██████████ appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated 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. The Claimant applied for FIP and FAP in November 2008.
2. Claimant's initial FAP award was \$125.00/month.

3. Claimant's benefits were recalculated on 1/23/09 per budget based on change of income including \$274.00/month of FIP benefits. (Exhibit 1, pp. 1-2).
4. Claimant's RSDI income as well as SSI income for a minor child in the household was also considered. (Exhibit 1, pp. 3-4).
5. Claimant has a group size of four people. Included in this group are Claimant's grandchildren who were placed with Claimant as foster children.
6. Claimant testified that she has a Medicaid premium of \$96.00 and an additional \$20.00/month in prescription costs.
7. The Claimant testified that she pays rent in the amount of \$650.00 per month.
8. Claimant testified that she is responsible for utilities and telephone.
9. The Department notified Claimant on 1/23/09 that her FAP benefits were being terminated effective 2/4/09. (Exhibit 1, p. 5).
10. On January 24, 2009, the Department received the Claimant's Request for Hearing protesting the termination of FAP benefits.

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 RSDI 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 23.9, as amended, \$138.00 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. Household groups that do not have a Senior/Disabled/Veteran (SDV) member are giving a standard deduction of \$35.00/month for medical expenses. Id. Household groups with a Senior/Disabled/Veteran are entitled to a deduction for medical expenses of the Senior/Disabled/Veteran, including any expense applied toward a Medicaid deductible. PEM 554 at p. 6.

FAP benefits are paid based on an individual's family group. The relationship of the people who live together affects whether they must be included or excluded from the group. People included in the group include spouses and children (natural, step and adopted) who purchase and prepare food together. The FAP group may choose to include or exclude a foster child whose foster parent is a group member. If excluded, the foster child is **not** eligible for FAP as a separate group, and the foster care payment is **not** income to the group. PEM 212, p. 1.

In the present case, according to the aforementioned policy on budgeting, Claimant has a net monthly income of \$2108. This was obtained by subtracting the standard deduction of \$138.00 and the excess shelter amount of \$91.00 from the gross income of \$2418.00 less actual medical expenses minus the standard medical deductible (\$116-\$35=\$81). The amount of food assistance allotment is established by regulations at 7 CFR 273.10. A household of four persons with a net monthly income of \$2108.00 is entitled to a monthly FAP grant of \$0 per month. RFT 260.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly calculated the Claimant's FAP allotment.

Accordingly, the Department's FAP eligibility determination is AFFIRMED.

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

Date Signed: 04/07/09

Date Mailed: 04/07/09

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:

