

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: 2009-19658
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 1, 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 June 1, 2009. The Claimant appeared and testified. Mona Lindsay, Eligibility Specialist appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective February 1, 2009.

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was a FAP recipient.
2. In December of 2009, Claimant was receiving \$323.00/month in FAP benefits.
3. The Department received an AFF hit indicating that Claimant's wife was receiving unemployment compensation.

4. On January 13, 2009, the Department recalculated Claimant's FAP budget including the unemployment compensation (Exhibit 2, p. 1-2). The Department then determined that Claimant should only be receiving \$14.00 per month in FAP benefits.
5. The Department issued a negative action on 1/27/09 and the new benefit amount went into effect for Claimant's February 2009 benefits. (Exhibit 1, p. 5).
6. Claimant testified that the earned and unearned income amounts used by the Department were accurate.
7. Claimant testified that he has \$54.00/month in medical expenses.
8. Claimant objected to the FAP calculation and filed this appeal. The Department received the Claimant's Request for Hearing on January 28, 2008.

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). Only 80% of earned income is counted in determining FAP benefits. PEM 550. Under 7 CFR 23.9, 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. Medical expenses over \$35.00 are also taken into consideration for groups with one or

more SDV (Senior, Disabled or Veteran). PEM 554, p. 1. The expense does not have to be paid to be allowed, but it does have to be incurred. Id. at p. 6.

In the present case, according to the aforementioned policy on budgeting, Claimant had a net monthly income of \$1463.00. This was obtained by subtracting the standard deduction of \$135.00 and the excess shelter amount of \$444.00 from the gross income of \$2042.00. The amount of food assistance allotment is established by regulations at 7 CFR 273.10. A household of two people with a net monthly income of \$2042.00 as of 2/1/09 was entitled to a monthly FAP grant of \$14.00 per month. RFT 260. The benefit amount increased as of 4/1/09. Furthermore, consideration of the additional medical expenses incurred by Claimant does not result in any additional food assistance allotment.

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: 06/11/09

Date Mailed: 06/12/09

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:

