

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: 2009-19695
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 4, 2009
Wayne 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 4, 2009. The Claimant appeared and testified. Deborah Randolph, FIM and Wanda Burks, Assistant Payment Director appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective 4/1/09.

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 with a household of three persons receiving \$256.93/month in food stamps.

2. The Department received notice that one of Claimant's daughters had income in the amount of \$692.92.
3. On March 20, 2009, the Department recalculated Claimant's FAP budget. (Exhibit 1, pp. 4-5). The Department determined that Claimant should receive \$119.00 per month in FAP benefits.
4. Claimant testified that her older daughter is no longer living with her since three years except for a few weeks in November of 2008.
5. Claimant testified that her daughter provides home health aide to Claimant three times per week. The income received by Claimant's daughter is provided by the state for the home health aide.
6. Claimant testified that her daughter is living elsewhere and that the daughter buys food and cooks primarily at the daughter's home.
7. The Claimant testified that the RSDI income and shelter amounts were correct.
8. Claimant objected to the FAP calculation and filed this appeal. The Department received the Claimant's Request for Hearing on January 28, 2008.
9. Following the appeal, the Department recalculated Claimant's FAP budget for a family of three with no earned income. (Exhibit 1, pp. 12-13). Claimant has been receiving \$354.00/month in food stamps effective 4/9/09.

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 for a family of three 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 given a standard deduction of \$35.00/month for medical expenses. Id. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

In the present case, according to the aforementioned policy on budgeting, Claimant has testified that her group consists of only two people. Since Claimant’s oldest daughter is not residing in the home, food stamps should be recalculated for a group size of two with Claimant’s RSDI income only. Ultimately, it is found that the Department failed to properly calculate Claimant’s FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department failed to properly calculate Claimant’s FAP benefits.

Accordingly it is ORDERED:

1. The Department’s negative FAP action is REVERSED.

2. The Department shall recalculate the Claimant's FAP case back to 4/1/09 with a group size of two and excluding Claimant's daughter's income.
3. The Department shall supplement the Claimant for any lost benefits she was otherwise entitled to receive.

/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:

[REDACTED]