

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: 2009-24253

Issue No: 3002

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 8, 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 July 8, 2009. The Claimant appeared and testified. Ashki Johnson, ES appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's Food Assistance ("FAP") benefits effective May, 19, 2009.

FINDINGS OF FACT

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

1. The Claimant applied for FAP benefits April 21, 2009.
2. A FAP budget was compiled on May 19, 2009. (Exhibit 1, p. 2-3).
3. The Claimant testified that at the time of application, she had a household of seven.

4. The Claimant testified that the income and shelter amounts used in the budget were accurate.
5. Claimant testified that her daughter, who is 17 years old, receives RSDI in the amount of \$1080.00.
6. The Department denied Claimant FAP benefits on 5/19/09. (Exhibit 1, p. 1).
7. Claimant objected to the FAP calculation and filed this appeal. The Department received the Claimant's Request for Hearing on May 21, 2009.

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 earned income and 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 273.9, as amended, \$188.00 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 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.

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. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child has his/her own spouse or child who lives with the group. PEM 212.

In the present case, according to the aforementioned policy on budgeting, Claimant has a net monthly income of \$3,569.00. This was obtained by subtracting the standard deduction of \$188.00 and the excess shelter amount of \$0.00 from the gross income of \$4,427.00. The amount of food assistance allotment is established by regulations at 7 CFR 273.10. A household of seven people with a net monthly income of \$3,569.00 is entitled to a monthly FAP grant of \$0.00 per month. RFT 260.

Claimant noted in the hearing her concern that she was only working 28 hours per week. It was explained to Claimant that the income used in the budget was based on the actual pay stubs presented which calculate to less than 28 hours/week at \$7.40/hour. Claimant described changes in her household income since the date of her original application. Claimant is entitled to reapply for FAP benefits.

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: 07/22/09

Date Mailed: 07/23/09

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]