

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.: 2009-26435
Issue No.: 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
August 26, 2009
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 in Highland Park, Michigan on August 26, 2009. The Claimant appeared and testified. The Claimant was represented by [REDACTED] of [REDACTED]. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's monthly Food Assistance ("FAP") allotment?

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 is a FAP recipient.
2. The Department received notice that the Claimant received unemployment compensation benefits.

3. The Claimant received \$524.00 bi-weekly in unearned income (unemployment compensation).
4. The Claimant received child support for the months of September, October, and November for two children.
5. The Claimant's group size is 2.
6. The Claimant's monthly FAP allotment was calculated as \$16.00 per month. (Exhibit 1)
7. The Department notified the Claimant of the monthly FAP allotment. (Exhibit 2)
8. On June 5, 2009, the Department received the Claimant's written request for hearing.

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").

Group composition is the determination of which persons living together are included in the FAP program group. PEM 212 All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. PEM 500 The Department must consider the gross benefit amount before any deduction, unless Department policy states otherwise. *Id.* For FAP purposes, all expenses are converted to a

nonfluctuating monthly amount. PEM 554 A group's monthly benefits are based in part, on a prospective income determination. PEM 505 A standard monthly amount must be determined for each income source used in the budget. PEM 505 Weekly benefit amounts are converted to a monthly amount by multiplying the weekly amount by 4.3. PEM 505 Bi-weekly amounts are converted by multiplying the amount by 2.15. PEM 505

In the instant case, the Department prospectively budgeted the Claimant's unemployment compensation benefits and input the Claimant's actual monthly child support income received for one child (\$250.00 per month) and averaged a 3 month period of fluctuating child support income received for another child (\$461.05) which resulted in unearned income of \$1,837.00. The Claimant never reported that her child support had changed/ceased and/or that her unemployment compensation benefits varied. The Department used the correct group size of 2 and input the correct monthly mortgage obligation as well as the Heating/Utility Standard. Ultimately, the Department established in acted in accordance with Department policy when it calculated the Claimant's monthly FAP allotment as \$16.00.

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, it is ORDERED:

The Department's FAP eligibility determination is AFFIRMED.

/s/

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/03/09

Date Mailed: 09/03/09

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.

CMM/jlg

cc:

