

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.: 2009-28532
Issue No.: 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
August 17, 2009
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 held on August 17, 2009. The Claimant appeared and testified. [REDACTED] Eligibility Specialist and [REDACTED] FIM appeared on behalf of the Department.

ISSUE

Did the Department properly determine claimant's FAP benefits for February 2009 and March 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. On February 17, 2009 an eligibility notice was issued informing claimant that her allotment equaled zero because of excess income.
2. A food assistance budget was completed in February 2009. (Exhibit 1, pp. 7).

3. The Claimant testified that the wage verifications upon which the Department based its decision are accurate, including:
 - a. ██████████, Wages \$2204.97/month
 - b. ██████████, Unearned income in form of Unemployment Benefits - \$1556.60/month
 - c. ██████████, Child Support Received – 395.00/month (Exhibit 1, pp.?)
 - d. ██████████ had child support expense of \$406.00.
4. The Department determined Food Assistance Benefits of \$0 February 2009 on February 17, 2009 due to excess income. (Exhibit 1, p.5).
5. On March 1, 2009 Claimant requested hearing requesting review of February 2009 and March 2009 budgeting. Negative action was deleted and FAP benefits continued pending hearing until April 30, 2009 when claimant's case was closed at the end of the certification period.

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 all earned income. 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, \$163.00 is deducted from the gross income of FAP recipients in determining FAP grants. The federal regulations define household income to include unemployment compensation benefit income. 7 CFR 273.9(b). The federal regulations define household income to include child support payments received. 7 CFR 273.9(b)(2)(iii) A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the gross income limits.

PEM 550

In the present case, according to the aforementioned policy on budgeting, for the February 2009 budget, Claimant's group had monthly gross income of \$4,155.00 from the following sources:

██████████	\$2204.00/month
██████████	\$1556.00/month
██████████	\$395.00/month

As a result, Claimant's group gross income is over the gross income limits of \$2,687.00 per month for a group size of five people. RFT 250. Therefore, Claimant does not qualify for FAP benefits.

Claimant asserted at the hearing that child support expense for ██████████ was not accounted for in the Department's budgeting, she is correct. However, when total countable income exceeds the gross income maximum in RFT 250 benefits are denied and no assessment of any expenses is required. PEM 556.

Although the Claimant believed she was eligible for FAP benefits, the Claimant did not disagree with the earnings used to calculate her eligibility. The Department established that it acted in accordance with departmental policy in determining the Claimant's FAP benefit for

February 2009. The Department was not required to perform a new calculation for March 2009 because the change in income was not expected to be temporary. PEM 505 Accordingly, the Department's FAP determination for February 2009 and March 2009 was correct.

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/ _____
Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/19/09

Date Mailed: 08/20/09

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.

AM/jlg

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