

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. 2009-30677
Issue No. 3002
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date:
August 24, 2009
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400.9; MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on August 24, 2009. The claimant appeared and testified. Janice Edwards, ES appeared on behalf of the department.

ISSUE

Is claimant receiving the correct monthly Food Assistance Program (FAP) allotment?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of FAP benefits in a household of 3 persons.
2. Claimant receives income from SSI and child support.
3. The amount of the child support payment for one of claimant's children changed in January 2009, February 2009, and April 2009.
4. Claimant had obligations for shelter and utility expenses.

5. The department calculated the FAP budget for January 2009 and determined that claimant is entitled to \$97 in FAP benefits per month. Department Exhibit p. 7-8.
6. Claimant requested a hearing contesting the amount of the FAP grant.

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 both earned and unearned income. 7 CFR 273.9(b). Under 7 CFR 273.9, as amended, \$135 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter expenses are also made. PEM 554.

To budget income from child support, PEM 505 directs the department to use the average of child support payments received in the past 3 calendar months, unless changes are expected. If the past 3 months’ child support is not a good indicator of future payments, calculate an expected monthly amount for the benefit month based on available information and discussion with the client. PEM 505.

In the present case, the amount of child support claimant received for one of her children changed multiple times between January and April 2009. FAP budgets for the months of January, February, March, April and May 2009 were submitted by the department. Department Exhibit 1 pgs. 7-16. These budgets show that each month, the past 3 months of child support

were used to prospect income. However, the figures used show the child support payments for that child ranged between \$156 and \$356 during those months. (Department Exhibit 1 pgs. 11-15) Claimant objects because this caused the income figure used in the calculation to be more than the amount of child support she received for a given month resulting in a reduced FAP allotment. The budgetable income for that child's support payment ranged between \$280 and \$415. (Department Exhibit 1 pgs. 7-16)

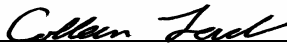
Based upon the foregoing facts and relevant law, it is found that the claimant was not receiving the correct monthly FAP allotment. The department representative testified that the manager was still in the process of reviewing and calculating supplemental FAP budgets for May, June and July 2009. However, claimants hearing request was filed in January when the changes to the child support payments began. Therefore, the department shall re-calculate the FAP budgets retroactive to January 2009 reflecting the child support payments she actually received each month.

Additionally, Claimant also testified she did not receive bonus stamps for the April 2009 stimulus. The reference tables used to determine the FAP allotment by group size and income were adjusted in April 2009 to reflect the increased due to the stimulus. Claimant's FAP budget was recalculated for April 2009 and the higher monthly allotment was used in the budget calculation. The department calculated a net income of \$894 for April 2009. (Department Exhibit 1 pg. 13) In March 2009, a group of 3 with a net income of \$894 would have been entitled to a monthly FAP benefit of \$194. RFT 260 as effective March 2009. For claimant's April 2009 budget, the department did use the increased FAP allotment of \$257 as found in RFT 260 as effective April 2009. Accordingly, claimant would not have received a separate issuance of FAP benefits due to the stimulus as the increase was already included in the FAP budget.

DECISION AND ORDER

The ALJ, based upon the findings of fact and conclusions of law, decides that the claimant was not receiving the correct monthly FAP allotment and it is ordered that the Department's decision in this regard be and is hereby REVERSED.

Therefore, it is ORDERED that the department will re-determine eligibility for FAP benefits retroactive to January 2009 and award benefits to claimant, if appropriate, in accordance with this decision.



Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/21/09

Date Mailed: 09/22/09

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.

CL/dj

cc:

