

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. 2009-30709
Issue No. 3002
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date:
August 24, 2009
Wayne 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. Lisa Donel, FIM, 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 one person.
2. Claimant receives \$688 monthly in SSI benefits and monthly income from alimony.
3. In January 2009, claimant filed a motion resulting in her receiving alimony payments through Friend of the Court beginning April 2009 with a monthly alimony payment of \$354 including arrearages.

4. Claimant had obligations for shelter and utility expenses.
5. In July 2009, the department recalculated claimant's FAP budget upon discovering the alimony on a find and fix system report and determined that claimant is entitled to \$108 in FAP benefits per month. Department Exhibit pp. 1-2.
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.

In the present case, the department had not included alimony in the FAP budget until the income was found on a find and fix system report. Once the alimony was included, claimants FAP allotment decreased to \$108.

According to the aforementioned policy on budgeting, claimant has a net monthly income of \$305. This was obtained by subtracting the standard deduction of \$135 and the excess shelter amount of \$602 from the gross income of \$1042. Claimant's gross income of was obtained by

adding the monthly SSI benefit of \$688 to the \$354 alimony. The amount of a monthly food assistance allotment is established by regulations at 7 CFR 273.10. A household of one person with a net monthly income of \$305 is entitled to a monthly FAP grant of \$108 per month. RFT 260.

Based upon the foregoing facts and relevant law, it is found that the claimant is receiving the correct monthly FAP allotment.

DECISION AND ORDER

The ALJ, based upon the findings of fact and conclusions of law, decides that the claimant is receiving the correct monthly FAP allotment and it is ordered that the Department's decision in this regard be and is hereby AFFIRMED.

Colleen Lack

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:

