

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: 2009-3073
Issue No: 3002, 4013
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 9, 2009
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 on February 9, 2009. The Claimant personally appeared and testified.

ISSUES

- (1) Did the Department properly calculate the Claimant's Food Assistance (FAP) benefits?
- (2) Did the Department properly determine Claimant ineligible for State Disability Assistance (SDA) benefits?

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 applied for FAP benefits recipient for a group size of one on October 10, 2008.

(2) Claimant applied for SDA benefits on August 28, 2008.

(3) Claimant receives [REDACTED] in monthly unearned income from her pension.

(4) Because Claimant's monthly unearned income of [REDACTED] exceeds the \$269 SDA benefit amount, the Department found her ineligible for SDA benefits for September 2008.

(Exhibit 2).

(5) The Department sent Claimant an Eligibility Notice, DHS-4400, on October 10, 2008, notifying her of her ineligibility for SDA benefits due to excess income. (Exhibit 1).

(6) In addition, on October 10, 2008, the Department also sent Claimant an Eligibility Notice to inform her that she was eligible for [REDACTED] in monthly FAP benefits effective October 2008. (Exhibit 3).

(7) Claimant disagreed with the Department's finding that she was ineligible for SDA and with her monthly FAP allotment on the grounds that she is a "low income" individual and needs assistance with food, medical and other expenses. (Exhibit 5).

(8) The Department received Claimant's hearing request on October 13, 2008.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (formerly

known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, et seq., and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Federal law requires that FAP recipients meet income eligibility standards to receive benefits:

Income and deductions.

(a) *Income eligibility standards.* Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for the Food Stamp Program. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program. Households which are categorically eligible as defined in §273.2(j)(2) or 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).
(7 CFR 273.9)

DEPARTMENT POLICY

FIP and SDA Only

The eligible group must be in financial need to receive benefits. Need is determined to exist when budgetable income is less than the payment standard established by the department. Program, living arrangement, grantee status and eligible group size are variables that affect the payment standard.
(PEM 515, pg. 1)

Under PEM 500, all income that is “NOT specifically excluded” must be considered in calculating FAP benefits. (PEM 500, pg.1).

Under PEM 515, SDA “need is determined to exist when budgetable income is less than the payment standard established the Department.” In this case, Claimant’s gross unearned income is [REDACTED], and her adjusted gross income is [REDACTED], both of which exceed the standard payment of \$269. Claimant does not allege that the SDA or FAP budgets contain any inaccuracies. Furthermore, there was no evidence that the Department erred in calculating Claimant’s FAP budget for October 2008 or in determining her ineligibility for SDA benefits. The undersigned has reviewed the Claimant’s October 2008 FAP budget and September 2008 SDA budget and finds them to be correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly computed Claimant’s FAP benefits allotment for October 2008 and properly determined her ineligible for SDA benefits.

Accordingly, the Department’s action is AFFIRMED.

/s/ _____
Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 17, 2009

Date Mailed: February 20, 2009

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

TLW

cc:

