

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: 2009-32088
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 9, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 conducted on September 9, 2009. The Claimant appeared and testified along with her husband, [REDACTED]. Lucille Granison, FIS, and Karen Christian, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective 8/4/09.

FINDINGS OF FACT

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

1. The Claimant was an active FAP recipient.

2. Claimant's unemployment compensation benefits stopped in July. Subsequently, Claimant came in and applied for cash assistance and reported his change in housing costs and change in income.
3. A Food Assistance Budget was compiled dated July 23, 2009. (Exhibit 1).
4. Claimant has a household group of two (5) persons.
5. Claimant's husband produced earnings statements showing unemployment compensation of \$774.00 every two weeks.
6. Claimant was earning \$443.98 per month from being a chore provider.
7. In addition, Claimant testified to rental income in the amount of \$600.00/month.
8. The Claimant testified that she is responsible for all utilities in her home.
9. The Claimant testified that her rental obligation at the time of application was \$913.00/month in mortgage, \$3400/year in taxes and \$780.00/year in insurance.
10. The Department admitted that the shelter obligation was not included in Claimant's budget.
11. Claimant testified that she is no longer working as a result of complications from a pregnancy.
12. Following the 7/23/09 budget, monthly FAP benefits were calculated in the amount of \$56.00/month. (Exhibit 1).
13. Claimant objected to the FAP calculation and filed this appeal. The Department received the Claimant's Request for Hearing on August 3, 2009.

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, \$135.00 is deducted from the gross income of FAP recipients in determining FAP grants. Unearned income includes SSI payments for family members (PEM 500, p. 33) and child support (PEM 500, p. 10). The average of child support payments received in the past 3 calendar months is used to prospectively calculate child support, unless changes are expected. Amounts that are unusual and not expected to continue should not be included in the calculation.

Under 7 CFR 273.9 deductions for excess shelter are also made. PEM 554. Id. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

In the present case, the Department acknowledged that the mortgage information was not included in Claimant’s FAP budget. The Department stated in its hearing summary that the budget would be recalculated, but it was not. Accordingly, the budget should be recalculated including Claimant’s mortgage, taxes and insurance. Furthermore, Claimant’s FAP budget should be recalculated based on change of income.

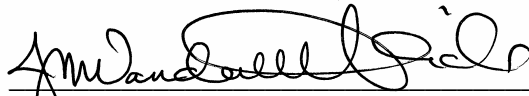
Based upon the foregoing facts and relevant law, it is found that the Department’s determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly calculated Claimant's FAP benefits.

Accordingly, it is ORDERED:

1. The Department's 8/4/09 reduction of FAP benefits is REVERSED.
2. The Department shall recalculate Claimant's FAP benefits to include a mortgage obligation as of 8/4/09 and supplement the Claimant for any lost benefits she was otherwise entitled to receive.
3. Furthermore, the Department shall determine when Claimant was taken off work due to her pregnancy and recalculate FAP benefits as of that date without earned income and then supplement the Claimant for any lost benefits she was otherwise entitled to receive.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/02/09

Date Mailed: 10/02/09

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.

JV/dj

cc:

