

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.: 2009-33358
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
October 12, 2009
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 in Warren, Michigan on Monday, October 12, 2009. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated the Claimant's Food Assistance ("FAP") benefits for the period from September 2008 through March 2009?

FINDINGS OF FACT

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

1. The Claimant is a FAP recipient.
2. On September 2, 2008, Department received the Claimant's application for public assistance.

3. On several occasions, the Claimant contacted the Department both by telephone and certified mail requesting an interview so her application could be processed.
4. On April 4, 2009, the Department calculated the Claimant's FAP benefits as \$205.00. (Exhibits 1, 2)
5. On this same date, the Department issued a \$313.00 FAP supplement to the Claimant for the period from September 2008 through March 2009. (Exhibit 3)
6. For the period from September 2008 through December 2008, the Claimant paid \$322.00 for rent.
7. Effective January 2009, the Claimant's rent was reduced to \$312.00 a month.
8. The Claimant received \$1,074.00/month in RSDI unearned income.
9. The Claimant incurred/paid medical expenses during the period at issue.
10. The Claimant is eligible for the Home Heating Credit.
11. The Claimant's household size is 2.
12. The Department received the Claimant's written hearing request protesting the delay in processing the application as well as the FAP calculation/supplement.

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").

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. PAM 105 Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. PAM 130 Group composition is the determination of which persons living together are included in the FAP program group. PEM 212 For FAP purposes, all expenses are converted to a nonfluctuating monthly amount. PEM 554 All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. PEM 500 The Department must consider the gross benefit amount before any deduction, unless Department policy states otherwise. PEM 500 A group's monthly benefits are based in part, on a prospective income determination.

In determining a FAP allotment, a Heat and Utility Standard is used whenever a FAP group contributes to the heat expense separate from rent, mortgage, or condominium/maintenance payments. PEM 554 Clients are not eligible for the Heat and Utility Standard when heat is included in the rent payment unless the client is billed for excess heat payments from the landlord, or the client reports that they have received, applied for or will be applying for a Home Heating Credit warrant in the current fiscal year (October through September) for their current address. *Id.*

In the instant case, the Claimant submitted an application for FAP benefits in September of 2008. The Claimant's monthly FAP allotment was not calculated until April 4th. The Claimant does not disagree with the April benefit amount but instead, disagrees with the \$313.00 supplement for the months of September 2008 through March 2009. In review of the budget, it appears the standard utility allowance was not included, although the Claimant was eligible (and had applied) for the Home Heating Credit, nor does it appear that any of the Claimant's medical

expenses were considered. In light of the foregoing, it is found that the Department's actions are not upheld. Accordingly, the Department's FAP eligibility determination for the period from September 2008 through March 2009 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 the Claimant's FAP allotment for the months of September 2008 through March 2009.

Accordingly, it is ORDERED:

1. The Department's FAP eligibility determination is REVERSED.
2. The Department shall recalculate the Claimant's budget for the period from September 2008 through March 2009 in accordance with Department policy.
3. The Department shall supplement the Claimant for any lost FAP benefits the Claimant was otherwise eligible and qualified to receive in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/21/09

Date Mailed: 10/21/09

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.

CMM/jlg

cc:

