

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: 2009-33521
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 21, 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 21, 2009. The Claimant appeared and testified. Karen Christian, FIM and Michael Riley, FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective April 14, 2009.

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. An AFF hit revealed to the Department that the husband was receiving unemployment compensation benefits.

3. Therefore, on May 13, 2009, the Department recalculated Claimant's FAP budget. The Department reduced Claimant's FAP benefits to \$231.00 in FAP benefits. (Exhibit 1, pp. 3-4).
4. Shortly after this budget was compiled, it was revealed that Claimant was still working. Accordingly, a new FAP budget was calculated using Claimant's earned income and unemployment compensation. The Department determined that Claimant should receive \$59.00 in FAP benefits. (Exhibit 1, pp. 2-3).
5. Claimant testified that he continues to receive unemployment benefits when he works less.
6. The Claimant testified that his rent is \$730.00/month.
7. The Claimant testified he is responsible for heat and electricity.
8. The Claimant received unemployment compensation in the amount of \$778.00 every two weeks.
9. Claimant had earned income of \$2,336.57 for the month of April, 2009. (Exhibit 1, p. 7).
10. Claimant objected to the FAP calculation and filed this appeal. The Department received the Claimant's Request for Hearing on August 18, 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 unemployment compensation benefits. 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. Under 7 CFR 273.9 deductions for excess shelter are also made. PEM 554. Household groups that do not have a Senior/Disabled veteran (SDV) member are given a standard deduction of \$35.00/month for medical expenses. 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.

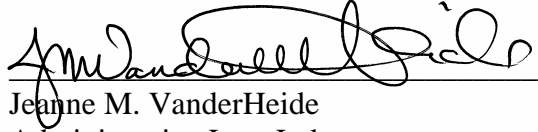
In the present case, according to the aforementioned policy on budgeting, Claimant has a net monthly income of \$2,646.00. This was obtained by subtracting the standard deduction of \$163.00 (for a group of 5) and the excess shelter amount of \$39.00 from the gross income of \$2,483.00. The amount of food assistance allotment is established by regulations at 7 CFR 273.10. A household of five people with a net monthly income of \$2,483.00 is entitled to a monthly FAP grant of \$59.00 per month. RFT 260.

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

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly calculated the Claimant’s FAP allotment.

Accordingly, the Department's FAP eligibility determination is **AFFIRMED**.



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

Date Signed: 10/12/09

Date Mailed: 10/13/09

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:

