

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: 2009-34090

Issue No: 3015

Case No:

Load No:

Hearing Date:

September 29, 2009

Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 telephone hearing was conducted on September 29, 2009. The Claimant appeared and testified. Kim Millard, Lead Worker, appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's Food Assistance ("FAP") benefits due to excess income.

FINDINGS OF FACT

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

1. On March 11, 2009, claimant applied for FAP benefits in a household of one person.
2. On April 13, 2009, the FAP benefits opened and claimant began receiving \$200 per month.

3. On April 22, 2009, verification of claimant's actual income consisting of pay stubs from March 2009, were received.
4. On June 6, 2009, the department re-calculated claimant's FAP budget using the income from the pay stubs and determined claimant was not eligible for FAP benefits due to income in excess of the \$1,127 monthly limit.
5. The department closed the claimant's FAP benefits on June 30, 2009.
6. Claimant requested a hearing on June 18, 2009, contesting the closure of the FAP benefits.

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 the gross amount of both earned income. 7 CFR 273.9(b). Stable income received every two weeks is multiplied by 2.15 to take into account fluctuations due to the number of scheduled pays in a month. PEM 505. A non-categorically eligible, non Senior/Disabled/Veteran (SDV) FAP group must have income below the gross income limits. PEM 550 The monthly gross income limit for a non-categorically eligible, non-SDV household of one person is \$1127. RFT 250.

In the present case, claimant applied for FAP benefits on March 11, 2009. On April 13, 2009 the department opened the FAP benefits, without verification of claimant's earnings, and

benefits were issued for \$200 monthly in April and May 2009. The department representative testified that she could not tell what income figure was used to calculate the initial FAP budget, but the claimant did indicate she worked 38 hours a week at \$11 per hour and was paid bi-weekly on the application. Claimant's reported income on the application would then be \$836 bi-weekly. If multiplied by 2.15 for standardization, claimant's reported gross monthly earnings would be \$1,797.

On April 22, 2009, the Department received claimant's pay stubs from March 6, 2009 with gross earnings of \$863.50 and March 20, 2009 with gross earnings of \$888.25. Claimant's monthly income in March 2009 was \$1,751.75. Using these pay stubs, the department recalculated claimant's FAP budget and determined claimant was not eligible for food stamps due to income in excess of the monthly gross income limit of \$1,127.

Additionally, claimant testified that on May 20, 2009 her employer transferred her to another store and she is no longer a manager. Claimant further testified that she struggles to keep 35 hours a week, is no longer eligible for bonuses, but her pay rate has remained at \$11 per hour. Under the aforementioned policy on income budgeting, if claimant worked 35 hours a week at \$11 per hour she would have bi-weekly gross earnings of \$770. Multiplied by 2.15 for standardization, claimant's gross monthly income would be \$1,655.

Based upon the foregoing facts and relevant law, it is found that the department's FAP determination was correct. Claimant's reported income exceeded the \$1,127 monthly gross earnings limit as reported on the application and as calculated using her March 2009 pay stubs. While claimant testified her hours and earnings have decreased to 35 hours a week, the earnings at 35 hours a week still exceed the monthly limit.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly closed the Claimant's FAP benefits due to excess income.

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

_____/s/_____
Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 30, 2009

Date Mailed: September 30, 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 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/cv

cc:

