

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.: 2009-3671
Issue No.: 3002/6019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 29, 2009
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on March 29, 2009. The Claimant personally appeared and testified.

ISSUES

Did the Department correctly calculate the Claimant's Food Assistance (FAP), benefits and deny her Child Development and Care (CDC) application?

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. The group size is two (2).
- (2) On September 12, 2008, the Department ran a FAP budget showing a monthly FAP benefit of \$215.00.

- (3) The department approved CDC for the period of September 14, 2008 through September 27, 2008, to pay for child care while the claimant attended Jobs Education and Training (JET).
- (4) On October 10, 2008, the Claimant filed a request for a hearing contesting her FAP benefit and the denial of her CDC to pay for child care while she attended college.

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 Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the instant case, the department approved CDC for the period of time the claimant was attending JET but denied continued CDC for the claimant while she attended college.

NEED

There are four CDC need reasons. Each parent/substitute parent of the child needing care must have a valid need reason during the time child care is requested. Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care because of:

Family Preservation.
High School Completion.
An Approved Activity.
Employment....

3. Approved Activity

Child care payments may be approved under this need reason when a client needs child care to participate in an employment preparation and/ or training activity or a post-secondary education program. The activity or education program must be approved by one of the following:

DHS.
MWA.
Refugee Services contractor.
Tribal Employment Preparation program.
Michigan Rehabilitation Services.

Training and educational programs must be occupationally relevant and the participant must make sufficient progress.

Training or education is occupationally relevant if:

Upon completion of the education or training program, the client will receive a degree or certificate that will improve the client's employment opportunities, by making the client qualified for more or better jobs. Courses or programs offered by community colleges and public universities, as well as courses or programs at private institutions for which the individual is receiving a Pell Grant or Stafford Loan, are presumed to be occupationally relevant.

The client is not enrolled in a degree or certificate program, but the specific course(s) or program in which the client is enrolled will teach the client skills that will improve the client's employment opportunities, by making the client qualified for more or better jobs.

(PEM 703, p.3-8)

Here, the Claimant's college had not been approved by one of the recognized organizations. The department was correct in denying CDC for the claimant's post secondary education.

On the issue of the claimant's FAP:

The federal regulations define household income to include unearned benefits as income, 7CFR 273.9(b). Only 80% of earned income is counted in determining FAP benefits, PEM 550. Under 7 CFR 273.9 as amended \$125.00 was deducted from the gross income of FAP recipients in determining FAP grants. Under CFR 273.9 deductions for excess shelter are also made, PEM 554.

In the instant case, the Claimant questions the amount of her FAP allotment. The Claimant has an adjusted gross income of \$276.00 per month. This was obtained by subtracting the standard deduction of \$125.00 and the excess shelter amount of \$0.00 from the adjusted gross income of \$276.00.

The amount of a monthly FAP allotment is established by regulations at 7 CFR 273.10. A household of two persons with a net monthly income of \$276.00 is entitled to a monthly FAP grant of \$215.00 per month. (RFT 260, p. 3)

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, AFFRIMS the Department's actions finding that the claimant is receiving the correct monthly FAP allotment and that the department correctly denied the CDC application beyond September 27, 2008.

/s/ _____
Michael J. Bennane
Administrative Law Judge

for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/16/09

Date Mailed: 06/17/09

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.

MJB/jlg

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