

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: 2009-37280

Issue No: 3003

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 22, 2009

Kent 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 held on October 22, 2009. Claimant appeared and testified. Matthew Lares, ES, and Michael Brown, FIM, appeared on behalf of the department.

ISSUE

Did the Department of Human Services (department) properly calculate claimant's monthly Food Assistance Program (FAP) allotment?

FINDINGS OF FACT

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

- (1) On June 22, 2009, claimant applied for FAP benefits for a household of two persons.
- (2) Claimant had obligations for shelter and utilities.

(3) The department calculated an expedited FAP budget based on claimant's statements and determined he was entitled to a prorated monthly allotment of \$92 for June 22-30, 2009. (Department Exhibit 2, pg. 2)

(4) On July 9, 2009, the department issued a Verification Checklist requesting proof of claimant's mortgage with a due date of July 20, 2009. (Department Exhibit 1, pg. 2)

(5) On July 15, 2009, the claimant submitted a Mortgage Interest Statement. (Department Exhibit 1, pg. 3)

(6) On July 20, 2009, the department re-calculated claimant's FAP budget without shelter expenses because the verification submitted did not show the monthly mortgage obligation and determined claimant was entitled to a monthly FAP allotment of \$16. (Hearing Summary)

(7) On July 27, 2009, claimant submitted further verification of his mortgage, including the monthly obligation. (Department Exhibit 1, pg. 4)

(8) On July 27, 2009, the department re-calculated claimant's FAP budget to include the shelter expenses and determined claimant is entitled to FAP allotment of \$42 per month. (Department Exhibit 2, pgs. 7-10)

(9) The department has also re-calculated an August 2009 FAP budget, with no shelter expense included and ongoing FAP allotment of \$16 per month. (Department Exhibit 2, pgs. 11-14)

(10) Claimant filed a Hearing Request on September 14, 2009, contesting the FAP determinations.

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 Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Program Reference Manuals.

The federal regulations define household income to include unearned income such as unemployment compensation benefits. 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. BEM 505. Under 7 CFR 273.9, as amended, \$135 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9, deductions for excess shelter expenses are also made when shelter expenses in excess of 50 percent of the household’s income after other specified deductions have been allowed. However, for a household of two persons, a maximum of \$446 can be deducted for excess shelter expenses. BEM 556 and RFT 255. The amount of a monthly food assistance allotment is established by regulations a 7 CFR 273.10. The monthly allotment a claimant is entitled to by group size and net income for any given month can be found in RFT 260 and has changed since claimant’s June 2009 application.

In the present case, claimant testified he received \$774 every two weeks in unemployment compensation benefits and a monthly mortgage obligation of \$1,292. (Department Exhibit 1, pg. 4) According to the aforementioned policy on budgeting, claimant

has a net monthly income of \$1,083. Claimant had gross earnings of \$1,664 (\$774 bi-weekly x 2.15). An adjusted gross income of \$1,529 was calculated by subtracting the standard deduction of \$135. Claimant's excess shelter expenses of \$1,078 (\$1,292 mortgage + \$550 heat and utility standard = \$1,842; 50% of the adjusted gross income of \$1,529 = \$764; \$1,842 - \$764 = \$1,078) exceed the monthly maximum excess shelter deduction of \$446. Therefore, only the maximum of \$446 in excess shelter expenses is subtracted from adjusted gross income of \$1,529 resulting in the net monthly income of \$1,083. Under RFT 260, in July 2009 a household of two persons with a monthly net income of \$1,083 was entitled to a monthly FAP allotment of \$42.

These figures were used in the July 2009 budget. (Department Exhibit 2, pgs. 7-10) However, not all of the budgets submitted by the department use these figures and reach the same calculated monthly net income. The June 2009 budget only used \$774 for the monthly income. (Department Exhibit 2, pgs. 3-6) However, this could be correct if the unemployment benefits began in the middle of this month, and claimant only received one unemployment compensation payment that month.

The August 2009 budget does not include an excess shelter deduction as no shelter expense was included. (Department Exhibit 2, pgs. 11-14) The department testified that the shelter expense was not included because the first mortgage verification submitted by claimant did not indicate the monthly payment and therefore was not sufficient. However, the verification checklist indicated a mortgage statement was an acceptable proof. (Department Exhibit 1, pg. 2) The mortgage interest statement claimant provided did document a regularly occurring transaction amount of \$1,303.92 for each month in 2008, which could have been used as verification of the monthly mortgage obligation. (Department Exhibit 1, pg. 3)

The department testified that the budget was recalculated when claimant submitted the second mortgage verification on July 27, 2009, however parts of this August 2009 budget and the October 2009 budget were cut off of the page in printing. (Department Exhibit 1, pgs. 5-7) No budget for September 2009 was submitted.

Further, it appears claimant was not given the full allotment of FAP benefits for each month since his June application. The Bridges Eligibility Summary submitted by the department after the hearing indicates that claimant received:

- \$92 as the prorated benefit for the period of June 22, 2009 to June 30, 2009,
- \$42 in benefits for the period of July 1, 2009 to July 31, 2009,
- \$16 in benefits for the period of August 1, 2009 to August 31, 2009,
- \$42 as a supplement for the period of September 1, 2009 to September 30, 2009 and
- \$45 in benefits for the period beginning October 1, 2009. (Department Exhibit 2 pg. 2)

The department testified that after the budget was re-calculated with the second mortgage verification, claimant was issued a supplement for August 2009. If the \$42 was to supplement the August underissuance, the supplement amount does not appear to be correct and claimant was never issued an allotment for the month of September 2009. If the \$42 supplement was a full allotment for the month of September, it was incorrectly entered as a supplement and claimant is still owed additional benefits from the August 2009 underissuance.

Based upon the foregoing facts and relevant law, it is found that the department has not properly calculated claimant's FAP benefits since his June 22, 2009 application. Therefore, the department shall re-determine the FAP eligibility and ensure claimant received the correct and full allotment for each month since his June 22, 2009 application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has not properly calculated claimant's FAP benefits since his June 22, 2009 application

Accordingly, the department's FAP determination is REVERSED. Therefore it is ORDERED that the department re-determine eligibility for FAP benefits retroactive to June 22, 2009 and award benefits to claimant, if appropriate, in accordance with this decision.

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

Date Signed: October 30, 2009

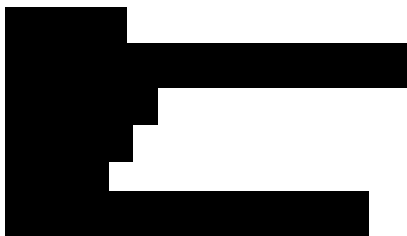
Date Mailed: October 30, 2009

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

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