

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: 2009-6420
Issue No: 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 5, 2009
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 on February 5, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly determine Claimant ineligible for Food Assistance Program (FAP) benefits due to excess income?

FINDINGS OF FACT

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

(1) Claimant filed an application for FAP benefits on September 18, 2008 for a group size of three.

(2) A Verification Checklist, DHS-3503 was mailed to her on September 18, 2008. (Exhibit 3). The Checklist requested shelter verification among other information. The shelter verification was due on September 30, 2008.

(3) Claimant failed to submit the shelter verification by the due date. Claimant submitted the completed shelter verification on December 2, 2008 when she requested a hearing.

(4) The Department worker calculated Claimant's budget for September 2008 on October 15, 2008. (Exhibit 6.)

(5) Claimant was ineligible for benefits because her income exceeded the income limit for FAP benefits. (Exhibit 7).

(6) Claimant disagreed with the Department's budget calculation on the grounds that she needs assistance to support her children.

(7) The Department received Claimant's hearing request on December 2, 2008.

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).

Federal law requires that FAP recipients meet income eligibility standards to receive benefits:

Income and deductions.

(a) *Income eligibility standards.* Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for the Food Stamp Program. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program. Households which are categorically eligible as defined in §273.2(j)(2) or 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).
(7 CFR 273.9)

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SHELTER EXPENSES

Allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. Do **not** prorate the shelter expense even if the expense is shared. Shelter expenses are allowed when billed. The expenses do **not** have to be paid to be allowed.

Late fees and/or penalties incurred for shelter expenses are **not** an allowable expense.
(PEM 554, p.9)

Verification

Verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified.

Verify the expense **and** the amount for housing expenses, property taxes, assessments, insurance and home repairs.
(PEM 554, p.10)

Under PEM 500, all income that is “NOT specifically excluded” must be considered in calculating FAP benefits (PEM 500, pg.1) and shelter expenses must be verified in order to be included on the FAP budget. In this case, the Department properly included Claimant’s income

in calculating her budget and did not include her shelter expenses because Claimant forgot to submit the shelter verification. Because Claimant failed to timely provide the Department with verification of her shelter expenses, the Department worker properly did not include a shelter expense. The undersigned has reviewed the Claimant's September 2008 budget and finds it to be correct based on the information available to the Department at the time the budget was calculated.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly determined Claimant ineligible for FAP benefits due to excess income.

Accordingly, the Department's action is AFFIRMED.

/s/

Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 9, 2009

Date Mailed: February 12, 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 of 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.

2009-6420/TLW

TLW

cc:

