

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: 201011827
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 21, 2010
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 January 21, 2010. The Claimant appeared and testified. Harold Allen, FIM and Ann Obaid, FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's Food Assistance ("FAP") benefits effective 1/12/09 based on 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. The Claimant applied for FAP Benefits on 11/10/09.
2. A food assistance gross income test budget was completed which indicated that Claimant had excess income. (Exhibit 1).

3. The Department denied Food Assistance Benefits on November 12, 2009 due to excess income.
4. Claimant testified that Claimant has a household group of four (4) people who all purchase and prepare food together.
5. The Claimant testified that his household has unearned income as follows:
Claimant - \$670.00/bi-weekly unemployment compensation;
Wife - \$348.00/bi-weekly unemployment compensation.
6. The Department did not provide any verification of Claimant's unearned income as the file had been misplaced.
7. The Claimant testified that he has a rent obligation of \$400.00 per month and is also responsible for payment of utilities in his home.
8. Claimant objected to the FAP denial and filed this appeal. The Department received the Claimant's Request for Hearing on 11/23/09.

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 Reference Tables ("RFT").

The federal regulations define household income to include all earned income. 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. BEM 550. Under 7 CFR 273.9, as amended, \$163.00 is deducted from the gross income of FAP recipients in determining FAP grants. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 550.

Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child has his/her own spouse or child who lives with the group. The phrase purchase and prepare together is meant to describe persons who customarily share food in common. Persons customarily share food in common if:

- They each contribute to the purchase of food; or
- They share the preparation of food, regardless of who paid for it; or
- They eat from the same food supply, regardless of who paid for it.

In general, persons who live together and purchase and prepare food together are members of the FAP group. BEM 212.

In the present case, Claimant testified credibly that his group had a net monthly gross income of \$2205.00 from the unemployment compensation. No evidence was offered by the Department. The evidence, therefore, shows that Claimant's group income is under the simplified reporting income limit of \$2,389.00 for a group size of four people. RFT 250. Therefore, Claimant qualifies for FAP benefits.

The federal regulations define household income to include all earned and unearned income. 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. BEM 550. Under 7 CFR 273.9, as amended, \$144.00 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. BEM 554. 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.

When calculating the benefit amount, according to BEM 556, the Shelter set offs are added together to equal A. The income after deductions is divided by two and equals B. $A - B = C$. The lesser of C or the maximum shelter amount set forth in RFT 255 will be deducted from the reduced income in determining the final net amount. The amount of food assistance allotment is established by regulations at 7 CFR 273.10 based on a group's net income.

In the present case, according to the aforementioned policy on budgeting, Claimant's shelter costs equal $\$400.00 + \$555.00 = \$955.00$ (A). 50% of the income less deductions = $\$1017.50.00$ (B). $(A - \$955) - (B - \$1017.50) = \$0.00$. Claimant has a net monthly income of $\$2061.00$. This was obtained by subtracting the standard deduction of $\$144.00$ and the excess shelter amount of $\$0.00$ from the gross income of $\$2205.00$. A household of four people with a net monthly income of $\$2,061.00$ is entitled to a monthly FAP grant of $\$49.00$ per month. RFT 260. Accordingly, The Administrative Law Judge finds that the Department's determination is REVERSED.

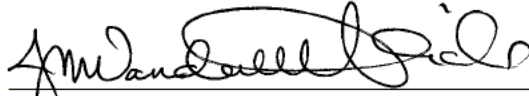
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly denied the Claimant FAP benefits.

Accordingly, it is ORDERED:

1. The Department's FAP denial of 11/12/10 is REVERSED.
2. The Department shall reopen and reprocess Claimant's FAP case from the date of application, 11/10/09, using the budget as set forth above.

3. The Department shall supplement Claimant with any lost benefits he was otherwise entitled to receive.



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

Date Signed: 03/10/10

Date Mailed: 03/11/10

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:

