

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Claimant

Reg. No.: 2010-1560
Issue No.: 3002
Case No.:
Load No.:
Hearing Date:
November 9, 2009
Wayne County DHS (19)

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 November 9, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department correctly calculate the Claimant's Food Assistance (FAP)?

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 February 19, 2009, the claimant applied for FAP.
- (2) The department ran a FAP budget and did not include certain medical expenses detailed and documented by the claimant.
- (3) On May 7, 2009, the Claimant filed a request for a hearing.

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 Tables (PRT).

Here, the claimant filed for a hearing because the department did not include her expenses for health insurance.

SDV GROUP

An SDV FAP group is one which has an SDV member.

Senior

A person at least 60 years old.

Disabled

A person who receives one of the following:

A federal, state or local public disability retirement pension **and** the disability is considered permanent under the Social Security Act.

Medicaid, CIMS program codes O or P (which require a disability determination by MRT or Social Security Administration).

Breast and Cervical Cancer Prevention and Treatment Program Medicaid cases are **not** considered disabled.

Railroad Retirement **and** is eligible for Medicare or meets the Social Security disability criteria.

A person who receives or has been certified and awaiting their initial payment for one of the following:

Social Security disability or blindness benefits.
Supplemental Security Income (SSI), based on disability or blindness, **even if** based on presumptive eligibility. (PEM 550, p.1).

And:

MEDICAL EXPENSES

Estimated Medical Expense

Estimate an SDV person's medical expenses for the benefit period. A FAP group may voluntarily, but cannot be required, to report changes during the benefit period.

Consider **only** the medical expenses of SDV persons in the eligible group or SDV persons disqualified for certain reasons. (PEM 554, p. 6).

In the instant case the claimant does not qualify as an SDV member therefore her medical expenses are not used in budgeting her FAP.

This ALJ finds that the department was correct in its calculation of the claimant's FAP.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, AFFIRMS the Department's actions finding that the claimant is receiving the correct monthly FAP allotment.



Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 1/19/2010

Date Mailed: 1/19/2010

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

cc:

