

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.: 201017369

Issue No.: 3002

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

March 1, 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 on September 10, 2009. After due notice, a telephone hearing was conducted on March 1, 2010 from Detroit, Michigan. The Claimant appeared and testified along with her husband, [REDACTED], [REDACTED], FIM and [REDACTED], ES appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective 9/1/09 through the present?

FINDINGS OF FACT

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

1. The Claimant was an active FAP recipient.

2. On 8/15/09 the Department notified Claimant that FAP benefits would be reduced from \$220 to \$193 per month effective 9/1/09. The Department indicated that no income was budgeted prior to 8/15/09. (Exhibit 3).
3. On 9/3/10 the Department notified Claimant that her FAP benefits would be reduced to \$132 effective 10/1/09. (Exhibit 1). The Department indicated that Claimant's RSDI was added to the FAP budget on 9/1/09.
4. Effective 11/1/09, Claimant's medical deduction changed increasing Claimant's FAP benefits to \$139.00. (Exhibit 2).
5. The Department utilized the following income information in calculating FAP benefits:
 - a. \$1374.00 – RSDI spouse
 - b. \$196.00 – RSDI Claimant
6. Claimant testified that her spouse's RSDI income was decreased for recoupment of an overpayment by \$191.70 per month. Claimant provided a letter from the US Department of Treasury dated 12/3/09. (Exhibit 4).
7. Claimant indicated that she had additional monthly medical expenses for prescription medications and office visits.
8. Claimant testified that she is responsible for the following housing costs:
 - a. Mortgage - \$594.00 per month
 - b. Insurance - \$900.00 per year
 - c. Flood zone insurance - \$540.00 per year

9. Claimant testified that she is behind on paying her taxes and last paid taxes two years ago. Claimant's tax bills were \$1,143 for 2009 summer taxes and \$335.52 2009 winter taxes.
10. Claimant reported a household group of two (2) people.
11. The hearing record was left open to allow Claimant additional time to provide:
 - a. Verification of reduction of RSDI payment;
 - b. Verification of monthly prescription expenses for Claimant and her spouse;
 - c. Verification of monthly physician appointment expenses;
 - d. Mortgage statement or other verification indicating the current mortgage payment and the date the current payment went into effect.(See 3/11/10 Interim Order). No additional information was submitted.
12. Claimant objected to the FAP calculations from September, 2009 through the present and filed this appeal. The Department received the Claimant's Request for Hearing on September 11, 2009.

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 Table ("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. PEM/BEM 550. Under 7 CFR 273.9, as amended, \$135.00 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. PEM/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 PEM/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, Claimant indicated errors in the Department's FAP calculations including the wrong amount for unearned income. The record was left open to allow Claimant to provide additional information; however, no additional evidence was submitted. The Administrative Law Judge finds evidence in the record that Claimant's unearned income changed as of 12/3/09 as evidenced by the submitted letter in Exhibit 4. It is unknown when the decreased amount of RSDI went into effect based on the evidence provided. Accordingly, the Department shall recalculate FAP benefits to reflect the decrease in RSDI for the months of January through March, 2010.


Based upon the foregoing facts and relevant law, it is found that the Department's determination is partially REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly calculated the Claimant's FAP allotment.

Accordingly, it is ORDERED:

1. The Department's FAP calculation is REVERSED for the months of January, February and March, 2010.
2. The Department shall reprocess Claimant's FAP case from January, 2010 - March, 2010 using decreased amount of RSDI (less \$191.70) per Exhibit 4.
3. The Department shall supplement Claimant with any lost benefits she was otherwise entitled to receive.

/s/ 
Jeannie M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 1, 2010

Date Mailed: April 1, 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.

JV/hw

cc:

