

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.: 201024697

Issue No.: 3002

Case No.:

Load No.:

Hearing Date:

April 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. After due notice, a telephone hearing was conducted on April 1, 2010. The Claimant appeared and testified. [REDACTED] FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective 11/1/09 – 2/28/10?

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 is an active FAP recipient.
2. A new FAP Budget was compiled effective 3/1/10 (Exhibit 3) which incorporates a heat and utility standard.
3. Claimant reported a household group of one (1) person.

4. The Claimant did not contest the amount of unearned income counted by the Department.
5. The Claimant testified that he pays \$192.00 in rent and is also responsible for his phone bill.
6. Claimant testified that he does not have any additional regularly incurred medical bills.
7. Following the March, 1, 2010 budget, monthly FAP benefits were calculated in the amount of \$156.00 per month.
8. Claimant objected to the amount of benefits that he had been receiving from 11/1/09 through 2/28/10 and filed this appeal. The Department received the Claimant's Request for Hearing on February 25, 2010.

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 BEM 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. PEM/BEM 550. Under 7 CFR 273.9, as amended, \$132.00 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. After March 1, 2010, all households will receive the heat/utility standard based on current or future receipt of LIHEAP funds. BPB 2010-008. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

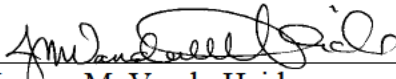
When calculating the benefit amount, according to PEM/BEM 556, the Shelter set offs are added together to equal A. The income after deductions is divided by two and equals B. $A - B = C$. The lesser of C or the maximum shelter amount set forth in RFT 255 will be deducted from the reduced income in determining 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, this Administrative Law Judge has personally reviewed the FAP budgets in accordance with the above referenced law and finds that the Department properly calculated FAP benefits based on Claimant's income, shelter expenses and group size of one. It is apparent from the budgets that from 11/1/09 – 2/28/10 Claimant did not have any countable excess shelter expense as his total shelter expenses were less than 50% of his income less deductions. Once the standard heat and utility deduction was added in on 3/1/10, Claimant's shelter expense increased and, therefore, his food benefits increased. Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination is **AFFIRMED**.

DECISION AND ORDER

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

Accordingly, the Department's FAP eligibility determination is AFFIRMED.

/s/ 

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

Date Signed: April 13, 2010

Date Mailed: April 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.

JV/hw

cc:

