

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.: 2010-26417
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 29, 2010
Wayne County DHS (35)

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 Claimant's request for a hearing. After due notice, a telephone hearing was conducted on April 29, 2010. Claimant appeared and testified. [REDACTED], appeared on behalf of the Department of Human Services ("Department").

ISSUE

Whether the Department properly computed Claimant's Food Assistance Program ("FAP") benefits effective 3/15/09.

FINDINGS OF FACT

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

1. Claimant was an active FAP recipient.
2. Claimant started receiving Unemployment Compensation benefits which were then added into Claimant's FAP budget.

3. The Department reduced Claimant's FAP benefits from \$200 per month to \$16.00 per month effective 3/15/10.
4. Claimant reported a household group of one (1) person.
5. Claimant testified that she began receiving unearned income from Retirement, Survivors, and Disability Insurance ("RSDI") in the amount of \$1,250.00 in April of 2010. The Department was unaware of the RSDI benefits prior to the hearing and they were not included in the FAP budget.
6. Claimant testified that she receives \$774.00 bi-monthly in Unemployment Compensation benefits.
7. Claimant testified that she pays \$427.00 per month in rent and is also responsible for paying her utilities.
8. Claimant testified that she has additional medical expenses from doctor visits and prescription medications that are not covered by insurance in the amount of \$90-\$100 per month.
9. Claimant objected to the FAP calculation and filed this appeal. The Department received Claimant's Request for Hearing on March 15, 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" or "Department"), formerly 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. 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. A non-categorically eligible Senior/Disabled/Veteran (“SDV”) FAP group must have income below the net income limits in order to receive FAP benefits. BEM 550.

In the present case, according to the aforementioned policy on budgeting, Claimant’s group of one had a net monthly gross income of \$2,927.00 from Unemployment Compensation benefits and RSDI. As a result, Claimant’s group income is over the gross income limit of \$1,174.00 per month for a group size of one person. RFT 250. Also, as Claimant’s shelter costs are less than 50% of her income less deductions (even including the additional medical deductions about which Claimant testified), Claimant is also over the monthly net income limit of \$903.00 for a disabled FAP member. Therefore, Claimant does not qualify for any FAP benefits. Claimant has only received FAP benefits of \$16.00 for the month of April, 2010. Accordingly, she has not been over paid more than \$125.00 and there is no recoupment action to be pursued by the Department as a result of the RSDI income. Furthermore, since the Department was unaware of the RSDI benefits at the time of the hearing, the Department actions

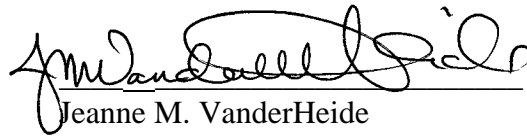
to reduce the FAP benefits based on Claimant's Unemployment Compensation benefits alone was correct.

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 Claimant's FAP allotment, given the information in the possession of the Department at the time.

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



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

Date Signed: May 12, 2010

Date Mailed: May 13, 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.

2010-26417/JV

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.

JMV/pf

cc:

