

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: 201027189

Issue No: 3002

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 12, 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 March 9, 2010. After due notice, a telephone hearing was conducted on April 12, 2010 from Detroit, Michigan. The Claimant appeared and testified. [REDACTED] ES appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits for the months of March and April, 2010.

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 was an active FAP recipient.
2. The Department noted a change in income and processed a new FAP budget reducing Claimant's FAP benefits to \$16.00 per month effective March 17, 2010.

3. Claimant testified that she is receiving underemployment compensation benefits as a result of her earned income decreasing. Claimant testified to earned income as follows:
 - a. \$69.76 (2/5/10 – 2/18/10)
 - b. \$96.54 (2/19/10 – 3/4/10)
 - c. \$167.03 (3/5/10 – 3/18/10)
 - d. \$244.91 (3/19/10 – 4/1/10)
4. The FAP budgets show unearned income as follows:
 - a. 3/10 - \$440.00
 - b. 4/10 - \$528.00
5. Claimant has a group size of one.
6. Claimant is responsible for \$500.00 per month for rent.
7. Claimant objected to the FAP calculations effective 3/17/10 through the present and filed this appeal. The Department received the Claimant's Request for Hearing on March 9, 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 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.

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.

It appears from the evidence presented that the Department included Claimant's unearned underemployment compensation benefits yet did not decrease the amount of money that Claimant was receiving in earned income. Claimant cannot get the underemployment compensation unless her income is decreased. Accordingly, the Department must use actual income when counting underemployment compensation benefits.

A. March, 2010

In the present case, according to the aforementioned policy on budgeting, Claimant's shelter costs equal $\$500.00 + \$555.00 = \$1055.00$ (A). 50% of the income less deductions = $\$17.00$ (B). $(A - \$1055) - (B - \$237) = \$818.00$, but the maximum shelter amount is $\$459.00$. Claimant has a net monthly income of $\$15.00$. This was obtained by subtracting the standard

deduction of \$132.00 and the maximum excess shelter amount of \$459.00 from the gross income of \$606.00. A household of one person with a net monthly income of \$15.00 is entitled to a monthly FAP grant of \$195.00 per month. RFT 260.

B. April, 2010

For the month of April, 2010, according to the aforementioned policy on budgeting, Claimant's shelter costs equal $\$500.00 + \$555.00 = \$1055.00$ (A). 50% of the income less deductions = $\$403.00$ (B). $(A-\$1055)-(B-\$403)=\$652.00$, but the maximum shelter amount is \$459.00. Claimant has a net monthly income of \$348.00. This was obtained by subtracting the standard deduction of \$132.00 and the maximum excess shelter amount of \$459.00 from the gross income of \$938.00. A household of one person with a net monthly income of \$348.00 is entitled to a monthly FAP grant of \$95.00 per month. RFT 260.

Based upon the foregoing facts and relevant law, it is found that the Department's FAP decrease effective 3/17/10 is REVERSED.

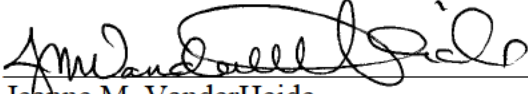
DECISION AND ORDER

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

Accordingly, it is ORDERED:

1. The Department's FAP calculation effective 3/17/10 is REVERSED.
2. The Department shall reprocess Claimant's FAP benefits for the months of March and April, 2010 using the budgets as set forth above.
3. The Department shall supplement Claimant with any lost benefits she was otherwise entitled to receive.

4. If the Department utilizes changes in Claimant's underemployment insurance to affect FAP benefits, the Department must also enter changes in Claimant's earned income. In the alternative, the Department may use an average of three months of BOTH earned income and unemployment compensation received.

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

Date Signed: April 23, 2010

Date Mailed: April 23, 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:

