

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: 20104057
Issue No: 3002, 3000
Case No: ██████████
Load No: ██████████
Hearing Date:
December 7, 2009
Oakland 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 received by the Department on October 16, 2009. After due notice, a telephone hearing was conducted in Detroit, Michigan on December 7, 2009. The Claimant appeared and testified along with her daughter, ██████████. Karen Small, Eligibility Manager, appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective 10/1/09.

FINDINGS OF FACT

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

1. The Claimant was an active FAP recipient.
2. A new budget was prepared by Bridges effective 10/1/09. (Exhibit 1, pp. 5-7).

3. As a result of the 10/1/09 budget, Claimant's FAP benefits were reduced to \$33.00/month. In December, Claimant's FAP benefits were further reduced to \$24.00/month.
4. Claimant reported a household group of one (1) person.
5. Claimant testified that she receives \$674.00 per month from SSI and \$14.00 per month from the State for Supplemental Social Security.
6. Claimant testified that she pays \$196.00 per month in rent which includes gas, electric and water. Claimant is responsible for her own telephone.
7. Claimant objected to the FAP calculation and filed this appeal. The Department received the Claimant's Request for Hearing on October 16, 2009.
8. At the hearing, the Department agreed to recalculate FAP benefits for the month of December as it was unknown why Claimant's benefits further decreased.
9. As a result of this agreement, Claimant indicated that she no longer wished to proceed with a hearing on FAP benefits for December, 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 Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

A. Settlement

Under Program Administrative Manual Item 600, clients have the right to contest any agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The agency provides an Administrative Hearing to review the decision and determine if it is appropriate. Agency policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when the agency receives a hearing request and continues through the day of the hearing.

In the present case the department has agreed to recalculate Claimant's FAP benefits for December of 2009. As a result of this agreement, Claimant indicated she no longer wished to proceed with the hearing regarding FAP benefits for December, 2009. Since the Claimant and the Department have come to an agreement it is unnecessary for this Administrative Law Judge to make a decision regarding the facts and issues in this case for December, 2009.

B. Food Stamp Calculation

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, according to the aforementioned policy on budgeting, Claimant's shelter costs equal $\$196.00 + \$33.00 = \$229.00$ (A). 50% of the income less deductions = $\$556.00$ (B). $(A-\$229)-(B-\$556)=\$0.00$. Claimant has a net monthly income of $\$556.00$. This was obtained by subtracting the standard deduction of $\$132.00$ and the excess shelter amount of $\$0.00$ from the gross income of $\$688.00$. A household of one with a net monthly income of $\$556.00$ is entitled to a monthly FAP grant of $\$33.00$ per month. RFT 260.

Based upon the foregoing facts and relevant law, it is found that the Department's determination of FAP benefits for the months of October and November 2009 is AFFIRMED.

DECISION AND ORDER

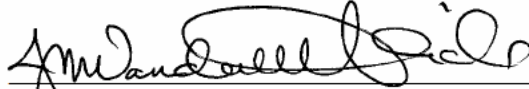
The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that the Department and Claimant have come to a settlement regarding claimant's request for a hearing regarding FAP benefits for December, 2009.

Accordingly, it is ORDERED:

1. The department shall recalculate Claimant's FAP benefits for the month of December, 2009 in accordance with this settlement agreement.
2. The Department shall supplement the Claimant for any lost benefits she was otherwise entitled to receive according to the new FAP calculation.

Furthermore, 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 for the months of October and November 2009.

Accordingly, the Department's FAP calculation for October and November 2009 is
AFFIRMED.



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

Date Signed: 12/22/09

Date Mailed: 12/23/09

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/dj

cc:

