

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: 20104089
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 23, 2009
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 in Detroit, Michigan on November 23, 2009. The Claimant appeared and testified. Nattie Compost, FIM and Pamela Dinkins, ES appeared on behalf of the Department.

ISSUE

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

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. On July 30, 2009, the Department received a semi-annual contact report containing check stubs for Claimant in the amounts of \$261.48 and \$280.11. (Exhibit 1, pp. 1-5)
3. A Food Assistance Budget was compiled including the earned income which reduced Claimant's benefits from \$216.00 per month to \$76.00 per month. (Exhibit 1, pp. 8 & 9).
4. Claimant reported a household group of three (3) people.
5. Claimant testified that her household receives unemployment compensation in the amount of \$516.00 every two weeks.
6. Claimant testified that she pays rent in the amount of \$609.00 per month which includes gas and water.
7. Claimant testified that she is also responsible for electric and telephone bills.
8. Claimant testified that she submitted new pay stubs showing decreased earned income in mid September and that benefits were not adjusted accordingly.
9. The Department acknowledged that new pay stubs were turned in and that the Department failed to run a new budget with the change in earned income.
10. Claimant objected to the FAP calculation and filed this appeal. The Department received the Claimant's Request for Hearing on October 16, 2009.
11. At the hearing, the Department agreed to recalculate FAP benefits for the months of October and November utilizing Claimant's pay stubs dated 9/4/09 and 9/14/09.
12. As a result of this agreement, Claimant indicated that she no longer wished to proceed with a hearing on FAP benefits for October and November, 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 to include the decreased earned income as evidenced by pay stubs dated 9/4/09 and 9/14/09 submitted by Claimant. As a result of this agreement, Claimant indicated she no longer wished to proceed with the hearing regarding FAP benefits for October and November, 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 October and November, 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 $\$609 + \$102 + \$34 = \745.00 (A). 50% of the income less deductions = $\$749.5.00$ (B). $(A - \$745) - (B - \$749.5) = \$0.00$. Claimant, therefore, has a net monthly income of $\$1499.00$. This was obtained by subtracting the standard deduction of $\$132.00$ and the excess shelter amount of $\$0.00$ from the gross income of $\$1631.00$. A household of three people with a net monthly income of $\$1499.00$ is entitled to a monthly FAP grant of $\$76.00$ 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 month of September 2009 is AFFIRMED.

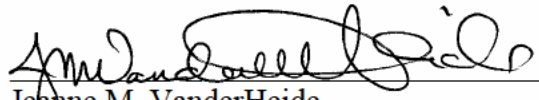
DECISION AND ORDER

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 October and November, 2009.

Accordingly, it is ORDERED:

1. The department shall recalculate Claimant's FAP benefits for the months of October and November utilizing reduced pay stubs dated 9/4/09 and 9/14/09 in accordance with this settlement agreement.
2. The Department shall supplement the Claimant for any lost benefits she was otherwise entitled to receive as a result of her decreased income not being included in the 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 month of September, 2009. Accordingly, the Department's FAP calculation for September 2009 is AFFIRMED.



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

Date Signed: 12/21/09

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.

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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

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