

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: 2010-6216

Issue No: 3002

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 9, 2009

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Marya A. Nelson-Davis

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 held on December 9, 2009.

ISSUE

Did the Department properly determine claimant's FAP eligibility?

FINDINGS OF FACT

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

- (1) Claimant is a FAP recipient with a group size of 1.
- (2) At the time relevant to this matter, Claimant was an Adult Home Help Care Provider who was expected to receive \$355 a month in gross earned income, and she was receiving a pension in the gross amount of \$616.34. (Exhibit 1, pp. 1 & 2)
- (3) Claimant's monthly shelter expense is \$434.

(4) Claimant has a monthly heat/utility obligation.

(5) Claimant did not report any medical, dependent care, or child support expenses for FAP purposes.

(6) The Department completed claimant's FAP budget and determined that her FAP benefits would be reduced to \$107 per month.

(7) On October 13, the Department sent claimant notice that her FAP benefits would be reduced to \$107.

(8) On October 28, the State Office of Administrative Hearings & Rules received claimant's hearing request, protesting the FAP eligibility determination.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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), 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 Bridges Reference Manual (BRM).

For FAP, all earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means ALL income that is not earned and includes retirement income or private pensions. The amount counted may be more than the client actually receives because the gross amount is counted prior to any deductions. BEM 500

For FAP purposes, the standard deduction for claimant's FAP group size of 1 would be \$132. RFT 255. Further, the Department is required to count only 80 percent of the total gross earned income. In this case, \$71 must be deducted from the earned income of \$355 (RFT 295), leaving Claimant with total countable income of \$900 (\$284 + 616). After subtracting the standard deduction of \$132 from the countable income of \$900, claimant would be left with adjusted gross income of \$768. BEM Item 556.

The Department determines a FAP group's net income by deducting certain allowable expenses. These expenses include medical expenses, dependent care expenses, child support expenses, and shelter expenses. BEM Item 554. In this case, claimant had only shelter expenses. Claimant's monthly rent is \$434, and she had a monthly heat/utility obligation. Claimant was given the heat/utility standard of \$555. RFT 255 FAP groups who qualify for the heat/utility standard do not qualify for any other individual utility standard. BEM 554 Therefore, Claimant's total shelter expense would be \$989 (\$434 plus \$555). BEM Item 556.

Pursuant to Department policy, 50% of \$768, claimant's adjusted gross income, must be deducted from her total shelter expense of \$989. This would result in excess shelter of \$605. The evidence on the record establishes that claimant is not senior, disabled, or a veteran. Therefore, the Department would be required to deduct Claimant's shelter maximum of \$459 from her adjusted gross income of \$768, which leaves net income of \$309. BEM Item 556.

The federal regulations at 7 CFR 73.10 provide standards for income and the amount of household benefits. In accordance with the federal regulations, the Department has prepared income and issuance tables which can be found at RFT 260.

According to RFT 260, a household size of 1 with net income of \$309 would be entitled to a \$107 FAP allotment on a monthly basis. Accordingly, the Department's FAP eligibility determination is upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department properly determined claimant's FAP eligibility.

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

/s/

Marya A. Nelson-Davis
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 18, 2009_____

Date Mailed: December 18, 2009_____

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.

MAND/db

cc:

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