

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: 2010663
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 2, 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 on August 25, 2009. After due notice, a telephone hearing was conducted on November 2, 2009. The Claimant appeared and testified. Gwen Davis, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits for the months May – November, 2009.

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 who was up for annual review in September of 2009.

2. Claimant indicated that she had additional monthly medical expenses for prescription medications.
3. The Department testified that it was waiting on verifications from Claimant in order to process the August, 2009 FAP payment; however, there is nothing in the file to indicate that a request for verification was mailed to Claimant.
4. The Department failed to compile any type of budget for the month of August and did not pay Claimant any FAP benefits for that month.
5. Claimant reported a household group of two (2) people.
6. Claimant testified that she had unearned income from SSI in the amount of \$317.81 for May and June, 2009 plus state disability benefits of \$42.00 per month and \$688.00 in SSI per month for July through November, 2009.
7. The Claimant testified that her lot rent is \$390.00 per month.
8. Claimant is responsible for gas and electric in addition to her lot rent.
9. Claimant testified that she has regularly incurred medical bills of \$65.00/month and \$25.00/month for prescription medication.
10. The Department testified that the FIM spoke to Claimant on 9/28/09 and requested verification of the medical expenses.
11. Claimant testified that she turned in the verifications on 10/8/09.
12. Claimant objected to the FAP calculations from May, 2009 through the present and filed this appeal. The Department received the Claimant's Request for Hearing on August 25, 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”).

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.

A. May – June, 2009

In the present case, Claimant testified credibly. According to the aforementioned policy on budgeting, Claimant's shelter costs equal $\$390.00 + \$550.00 = \$940.00$ (A). 50% of the income less deductions = $\$113.00$ (B). $(A-\$940)-(B-\$113)=\$827.00$; however, the maximum shelter amount is $\$459.00$. Claimant has a net monthly income of $\$0.00$. This was obtained by subtracting the standard deduction of $\$135.00$ and the maximum excess shelter amount of $\$459.00$ from the gross income of $\$359.00$. A household of two people with a net monthly income of $\$0.00$ is entitled to a monthly FAP grant of $\$367.00$ per month. RFT 260.

B. July - November, 2009

In the present case, according to the aforementioned policy on budgeting, Claimant's shelter costs equal $\$390.00 + \$550.00 = \$940.00$ (A). 50% of the income less deductions = $\$113.00$ (B). $(A-\$940)-(B-\$113)=\$827.00$; however, the maximum shelter amount is $\$459.00$. Claimant has a net monthly income of $\$94.00$. This was obtained by subtracting the standard deduction of $\$135.00$ and the maximum excess shelter amount of $\$459.00$ from the gross income of $\$688.00$. A household of two people with a net monthly income of $\$94.00$ is entitled to a monthly FAP grant of $\$338.00$ per month. RFT 260.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

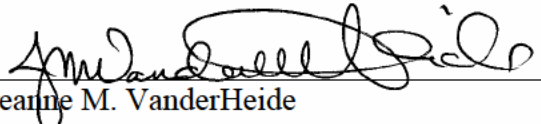
DECISION AND ORDER

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 is REVERSED.

2. The Department shall reprocess Claimant's FAP case from May, 2009 - November, 2009 using the budgets as set forth above.
3. The Department shall supplement Claimant with any lost benefits she was otherwise entitled to receive.
4. Claimant shall provide the Department with verification of her Medical expenditures if the Department is unable to locate the verifications already submitted by Claimant.


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

Date Signed: 11/02/09

Date Mailed: 11/09/09

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:

