

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: 2010-6658
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 4, 2010
Oakland County DHS (04)

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 held on January 4, 2010. The claimant appeared and testified. [REDACTED] and [REDACTED] appeared on behalf of the department.

ISSUE

Is the department correct in determining claimant's FAP benefit?

FINDINGS OF FACT

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

- (1) Claimant was an FAP recipient.
- (2) The department determined claimant's FAP benefit to be \$132 per month effective August 1, 2009, reduced from \$151. A supplement of \$10 was paid to claimant for August 2009.
- (3) Claimant has income of \$772 per month consisting of social security benefits.

- (4) Claimant has shelter expense of \$764.
- (5) Claimant requested a hearing on July 7, 2009, contesting the reduction of her FAP benefits and raising an issue with regard to her rental obligation.

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 550. Under 7 CFR 273.9, as amended, \$135 is deducted from the gross income of FAP recipients in determining FAP grants.

In the present case, claimant has \$772 unearned income from social security benefits. The standard deduction of \$135 was subtracted from \$772 resulting in adjusted income of \$637. Claimant has shelter expense of \$764, and does qualify for excess shelter deduction of \$446. Subtracting \$446 from \$637 equals \$191. The Food Assistant Issuance Table shows \$142 in benefit for \$191 net income for a household of 1. RFT 260. This is the amount determined by the department and it is correct.

Claimant raised an issue with regard to her benefits not continuing at the original amount pending the hearing. The department acknowledged at hearing that this was an error on their part, however nothing can be done to remedy that error in this forum because claimant has received the benefits she is entitled to.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department was correct in the determination of FAP benefits, and it is ORDERED that the department's decision in this regard be and is hereby AFFIRMED.



Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 20, 2010

Date Mailed: January 21, 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.

AM/pf

cc:

