

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: 2010-14305
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 8, 2010
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 Claimant's request for a hearing. After due notice, a hearing was conducted from Detroit, Michigan on February 8, 2010. The Claimant appeared and testified. David Rost, ES, appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated Food Assistance Program (FAP) benefits effective August 1, 2009?

FINDINGS OF FACT

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

1. Claimant has been receiving FAP benefits since June 2009.
2. The Claimant has a FAP group of two members.

3. In June 2009, the Claimant began receiving unemployment benefits of \$362.00 per week.
4. On August 4, 2009, the Claimant notified the Department that her unemployment weekly benefits had been reduced from \$362 per week to \$72.00 per week as of [REDACTED], 2009. Exhibits 1 and 4.
5. The Department found the claimant's rent to be \$850.00 per month and utilized the standard deduction for utilities of \$555.00.
6. The Department continued to calculate the Claimant's FAP benefits from August, 2009 through December, 2009 based on unemployment compensation benefits of \$362.00 per week.
7. On December 11, 2009, the Claimant requested a hearing objecting to the Department's FAP calculation.
8. The Claimant stopped receiving unemployment benefits as of December 28, 2009.

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) administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT).

The federal regulations define household income to include all earned and unearned income, including the gross amount of unearned income. 7 CFR 273.9(b), BEM 503, p. 24-25. All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of

earned income is counted in determining FAP benefits. 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. 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 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.

Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. A supplemental issuance may be necessary in some cases. If verification is returned late, the increase must affect the month after verification is returned. BEM 220, p. 5.

In the present case, Claimant disputes the amount of her FAP benefits indicating that she disagreed with the calculation of her unearned income from unemployment compensation benefits. The Claimant provided verification of her reduced unemployment benefit award. Furthermore, the Claimant testified credibly that she reported a change (decrease) in unemployment benefits on August 4, 2009. Therefore, the Administrative Law Judge finds that any change in benefits as a result of the decreased unemployment compensation received should be calculated effective September, 2009.

The Department's previous budgets included an unearned income amount based on the claimant receiving \$362.00 per week in unemployment benefits. At the hearing the claimant produced a print out from the Unemployment Agency data base indicating that the amount of unemployment benefits received was \$72.00. None of the budgets calculated by the Department have included the Claimant's reduced unemployment benefits as of August 2009. The FAP benefits should be calculated as follows:

According to the aforementioned policy on budgeting, Claimant's shelter cost equal $\$850.00 + \$555.00 = \$1405.00$ (A). The claimant's monthly income is calculated by taking the weekly unemployment benefit $\$72.00 \times 52 \text{ weeks} \div 12 \text{ months} = \312.00 . 50% of the gross income less deductions = \$21.00 (B). $(A \$1405) - (B \$21.00) = \$1,384$ but 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 \$312. 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.

Accordingly, it is found that the Department improperly calculated the unearned income received during the months of August 2009 through December 2009. Therefore, the Department's determination of FAP allotment is in error and is REVERSED.

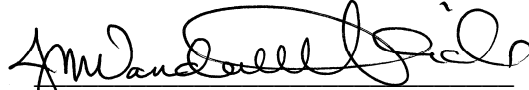
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department incorrectly calculated the Claimant's FAP allotment.

Accordingly, it is ORDERED:

1. Department's determination of FAP allotment is in error and is REVERSED.
2. The Department shall reprocess the Claimant's FAP case from September, 2009 through December, 2009 using the budget set forth above.

3. The Department shall supplement the Claimant with any lost FAP benefits she was otherwise entitled to receive for the period September 2009 through December 2009.



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

Date Signed: 03/10/10

Date Mailed: 03/11/10

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:

