

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: 201016565

Issue No: 3015

Case No:

Load No:

Hearing Date:

March 4, 2010

Macomb 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 on March 4, 2010 from Detroit, Michigan. The Claimant appeared and testified. [REDACTED], ES, appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's Food Assistance ("FAP") benefits effective 2/1/2010 based on excess income.

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 who reported losing her job and also reported the receipt of unemployment benefits.

2. A new budget was calculated which revealed that Claimant's net income was over the applicable income limits. (Exhibit 2).
3. Claimant has a household group of three (3) people.
4. The Claimant did not contest the amount of income used by the Department and testified that her household has unearned income as follows:
 - a. \$312.00/weekly unemployment compensation
 - b. \$670.00/month RSDI (death benefit paid for Claimant's son)(Exhibit 1, p. 4).
5. Claimant has rent in the amount of \$650.00 per month and is responsible for electric and telephone expenses.
6. Claimant does not have a disabled person in her household.
7. The Department terminated Claimant's FAP benefits effective 2/10/2010 due to excess net income.
8. Claimant objected to the FAP denial and filed this appeal. The Department received the Claimant's Request for Hearing on January 14, 2010.

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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

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. BEM 550. Under 7 CFR 273.9, as amended, \$132.00 is deducted from the gross income of FAP recipients in determining FAP grants. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 550.

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 income.

In the present case, according to the aforementioned policy on budgeting, Claimant's shelter costs equal $\$650 + \102 (electric) + $\$34$ (telephone) = $\$786.00$ (A). 50% of the income less deductions = $(\$1352.00 + \$670 - \$132) / 2 = 945.00$ (B). $(A - \$786) - (B - \$945) = \$0.00$. Claimant, therefore, has a net monthly income of $\$1890.00$. This was obtained by subtracting the standard deduction of $\$132.00$ and the excess shelter amount of $\$0.00$ from the gross income of $\$2,022.00$ (total of unemployment compensation ($\$312/\text{wk} \times 52 \text{ weeks}/12 \text{ months} = \$1,352/\text{month}$) and RSDI benefits). As a result, Claimant's group income is over the gross income limits of $\$1984.00$ per month for a non SDV group size of three people and also over the net income limits of $\$1,526.00$ for a SDV group size of three people. RFT 250. While it appears that Bridges placed Claimant in a SDV group (presumably on the receipt of RSDI death benefits for Claimant's son) and there is no SDV member in the group, Claimant is over income under both

the net income and the gross income tests. Therefore, Claimant does not qualify for FAP benefits.

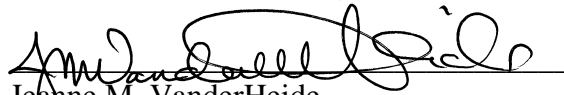
The Department established that it acted in accordance with departmental policy in determining the Claimant's FAP denial effective 2/1/10. Accordingly, the Department's FAP denial was correct. The Claimant was encouraged to reapply for FAP benefits given her current change in income.

Accordingly, based on the evidence and testimony placed in the record, the undersigned finds that the Department properly denied FAP benefits effective 2/1/10 and the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly denied the Claimant FAP benefits based on excess income effective 2/1/10.

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



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

Date Signed: March 25, 2010

Date Mailed: March 25, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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/hw

cc:

