

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.: 201021209

Issue No.: 3002

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

March 24, 2010

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. After due notice, a telephone hearing was conducted on March 24, 2010. The Claimant appeared and testified along with her husband [REDACTED] who was also Claimant's interpreter. [REDACTED] ES and [REDACTED] [REDACTED] Lead Worker appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective December 1, 2009.

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 had a new baby in 2009.
2. Claimant testified that she received \$285.00 in FAP benefits for the months of October and November.

3. The Department indicated that Claimant's FAP benefit should have increased to \$437.00.
4. In addition, Claimant testified that her husband was laid off on 11/23/09 for two months.
5. Once Claimant forwarded a verification (Exhibit 2), the Department indicated that it issued a supplement for the months of January and February of 2010 to equal the difference up to \$437.00 per month in FAP benefits.
6. Claimant reported a household group of five (5) people.
7. Claimant returned to work on 1/23/10 and produced wage stubs as follows:
 - a. 2/6/10 – 333.87
 - b. 2/12/10 - \$360.84
 - c. 2/19/10 - \$319.92(Exhibit 3).
8. The Claimant testified that she pays rent in the amount of \$400.00 per month and \$450.00 per month as of March, 2010. Claimant does not pay utilities.
9. A current Food Assistance Budget is attached as Exhibit 1. Monthly FAP benefits were calculated in the amount of \$619.00 effective 3/1/10.
10. Claimant objected to the FAP calculation and filed this appeal. The Department received the Claimant's Request for Hearing on January 21, 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 Program Eligibility Manual (“BEM”), and the Reference Table (“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. PEM/BEM 550. Under 7 CFR 273.9, as amended, \$170.00 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. January, 2010

In the present case for the month of January, according to the aforementioned policy on budgeting, Claimant’s shelter costs equaled \$400.00 (A). 50% of the income less deductions = \$0.00 (B). $(A - \$400) - (B - \$0) = \$400.00$. Claimant, therefore, has a net monthly income of \$0.00. This was obtained by subtracting the standard deduction of \$170.00 and the excess shelter

amount of \$400.00 from the gross income of \$0.00. A household of five persons with a net monthly income of \$0.00 is entitled to a monthly FAP grant of \$793.00 per month. RFT 260.

B. February, 2010

For the month of February, according to the aforementioned policy on budgeting, Claimant's shelter costs equaled \$400.00 (A). 50% of the income less deductions = \$422.00 (B). $(A - \$400) - (B - \$422) = \$0$. Claimant, therefore, has a net monthly income of \$844.00. This was obtained by subtracting the standard deduction of \$170.00 and the excess shelter amount of \$0.00 from the gross income of \$1014.00. A household of five persons with a net monthly income of \$844.00 is entitled to a monthly FAP grant of \$539.00 per month. RFT 260.

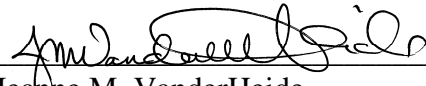
Accordingly, based on the above referenced facts and applicable law, the Department did not properly calculate Claimant's supplement for FAP benefits.

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 for the months of January and February, 2010 is REVERSED.
2. The Department shall reprocess Claimant's FAP case for the months of January and February, 2010 using the budget set forth above.
3. The Department shall supplement Claimant with any lost benefits she was otherwise entitled to receive.

/s/ 

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

Date Signed: April 13, 2010

Date Mailed: April 19, 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.

JV/hw

cc:

