

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: 2010-2891
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 17, 2009
Sanilac County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 telephone hearing was held on November 17, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly compute the amount of Food Assistance Program (FAP) benefits that the claimant was entitled to receive, resulting in decrease of such benefits for October, 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. Claimant was a FAP recipient when his case came due for a redetermination.
2. Department computer a new budget reflecting an increase in claimant's VA benefits from \$931 per month to \$985 per month, and removing an expense allowance for his homeowners insurance as no verification of this cost was provided.

3. Department's new FAP budget resulted in decrease of claimant's benefits from \$96 per month to \$65 per month. Claimant was notified of this change on September 30, 2009 and requested a hearing on October 9, 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 or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM 500. The FAP provides a deduction from earned income and a deduction for the cost of child care when necessary to enable a FAP household member to work. Certain non-reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a certain maximum for non-senior/disabled/veteran households. BEM 500 and 554.

In claimant's case, the Administrative Law Judge has reviewed the FAP budget and finds that the department properly counted and computed claimant's income and expenses. The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. The department in compliance with the federal regulations has prepared issuance tables which

are set forth at PRM 260. The issuance table provides that a household with household size and net income of the claimant is eligible for an FAP allotment of \$65.

Claimant testified that he needs more food stamps due to being a diabetic and not having sufficient income to buy his food and pay for all of his expenses. This Administrative Law Judge does not doubt that the claimant would have a difficult time meeting all of his expenses on the income that he receives, especially since he also has sizable Medicaid copay each month. Unfortunately, an Administrative Law Judge does not have any equity powers, and must follow federal regulations when determining if department's actions are correct. In claimant's case, they are. Claimant also states that he cannot afford homeowners insurance. It was suggested to him that he contact VA as they may have some funds to help him. Claimant will do so.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly computed the amount of FAP benefits the claimant was entitled to receive, resulting in decrease of such benefits for October, 2009.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/

Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 20, 2009

Date Mailed: November 24, 2009

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.

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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.

IR/om

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