

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.: 2010-5485
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
December 9, 2009
Wayne County DHS (18)

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 December 9, 2009. The Claimant appeared and testified. [REDACTED] FIM and [REDACTED] ES 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 as material fact:

- (1) Claimant was an FAP recipient.
- (2) Claimant has income consisting of \$1874 in employment income and \$1221 unemployment benefit per month.
- (3) The department determined claimant's FAP benefits to be \$33 per month.

- (4) Claimant requested a hearing on October 28, 2009 contesting the reduction of her FAP benefits.

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, \$135.00 is deducted from the gross income of FAP recipients in determining FAP grants.

In the present case, claimant had \$1211 unearned income from unemployment benefits and \$1874 in employment income. \$1874 in employment income was determined by multiplying the average of claimant’s last two weekly checks by 2.15 pursuant to policy BEM 505. $994.14 + 749.73 = 1743.87 / 2 = 871.93 \times 2.15 = \1874 . The standard deduction of \$170 was taken along with the earned income deduction of \$375 resulting in adjusted income of \$2550. Claimant has shelter expense of \$1292, and does qualify for excess shelter deduction of \$17. Subtracting \$17 from \$2550 results with \$2533. The Food Assistant Issuance Table shows \$33 in benefit for

\$2533 net income for a household of 5. RFT 260 This is the amount determined by the department and is correct.

Claimant raised an issue at hearing with regard to the calculation of her employment income. Claimant asserted that it was unfair to use the October 15, 2009 and October 1, 2009 pay checks because these checks included substantial overtime that is not regular and consistent. However, the Department's calculation used the most recent month's income; this was based on department policy and was correct. BEM 505

DECISION AND ORDER

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

Accordingly, the Department's determinations are AFFIRMED.



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

Date Signed: 1/12/2010

Date Mailed: 1/12/2010

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.

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cc:

