

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: 2010-5829
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 14, 2009
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 the Claimant's request for a hearing. After due notice, a telephone hearing was conducted on December 14, 2009. The Claimant appeared and testified. [REDACTED], Claimant's son, sat in on the hearing. Judy Fineman, FIM and Shirley Ellison, ES appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective 5/1/09.

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 applied for FAP benefits on May 1, 2009.

2. A Food Assistance Budget was compiled dated June 6, 2009. (Exhibit 1, pp. 10-11).
3. Claimant has a household group of two (2) persons.
4. Claimant produced earnings statements showing gross earned income as follows:
 - a. 4/24/09 - \$710.33
 - b. 5/8/09 - \$846.50(Exhibit 1, p. 11).
5. Claimant testified that she receives child support in the amount of \$282.75 monthly.
6. The Claimant testified that she is responsible for all utilities in his home.
7. The Claimant testified that her mortgage/taxes/home owner's insurance obligation is \$1,369.99.
8. Following the 6/6/09 budget, monthly FAP benefits were calculated in the amount of \$55.00/month.
9. Claimant was notified of the Department decision on 6/6/09.
10. Claimant objected to the FAP calculation and filed this appeal. The Department received the Claimant's Request for Hearing on August 31, 2009.

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. Unearned income includes SSI payments for family members (PEM 500, p. 33) and child support (PEM 500, p. 10). The average of child support payments received in the past 3 calendar months is used to prospectively calculate child support, unless changes are expected. Amounts that are unusual and not expected to continue should not be included in the calculation.

Under 7 CFR 273.9 deductions for excess shelter are also made. PEM 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.

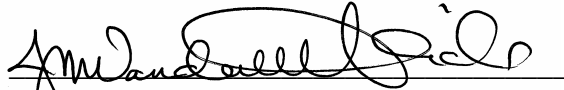
According to the aforementioned policy on budgeting, Claimant had a net income of \$1039.00. This was obtained by subtracting the standard deduction of \$135.00 and the excess shelter maximum amount of \$446.00 from 80% of the gross income (\$1338.00) plus unearned income of \$282.00. The amount of food assistance allotment is established by regulations at 7 CFR 273.10. A household of two people with a net monthly income of \$1039.00 is entitled to a monthly FAP grant of \$55.00 per month. RFT 260.

Based upon the foregoing facts and relevant law, it is found that 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 calculated the amount Claimant's FAP allotment.

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: 12/23/09

Date Mailed: 01/08/10

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:

