

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: 20107194
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 6, 2010
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 January 6, 2010. The Claimant appeared and testified. Callie Laferney, FIS, Case Manager appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective 8/1/09.

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 was an active FAP recipient.
2. Upon redetermination, an issue regarding household composition was raised and FAP benefits were not paid.

3. At the time of the hearing, however, Claimant's FAP benefits had been reactivated and Claimant had received a supplement for back benefits. Claimant maintained questions about the amount of food assistance she was receiving.
4. Food Assistance Budgets were compiled. (Exhibit 2, pp. 1-20).
5. Claimant reported a household group of three (3) people.
6. Claimant testified that she had unearned income from SSI and RSDI in the amount of \$682.40 up until January of 2010. After January, 2010, Claimant received \$1088.00 in RSDI.
7. In addition, Claimant testified that she received \$272.00 per month in Cash Assistance from September, 2009 forward. In August, 2009, Claimant received \$158.00 per month.
8. The Claimant testified that her rent is currently \$159.00 per month.
9. Claimant testified that she is responsible for all utilities.
10. Claimant testified that she currently has additional regularly incurred medical bills of \$96.40. Additional medical expenses were used in the previous FAP budgets which were not disputed by the Department.
11. Monthly FAP benefits were calculated as follows:
 - 1/1/10 - \$257.00/month
 - 12/1/09 - \$264.00/month
 - 11/1/09 - \$387.00/month
 - 10/1/09 - \$399.00/month
 - 9/1/09 - \$526.00/month
 - 8/1/09 - \$526.00/month

12. Claimant objected to the FAP calculations and filed this appeal. The Department received the Claimant's Request for Hearing on October 30, 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/BEM 550. Under 7 CFR 273.9, as amended, \$135.00 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. August, 2009

In the present case for August, 2009, according to the aforementioned policy on budgeting, Claimant's shelter costs equal $\$159 + \$550 = \$709.00$ (A). 50% of the income less deductions = $\$274.00$ (B). $(A-\$709)-(B-\$274)=\$435.00$. Claimant, therefore, has a net monthly income of $\$256.00$. This was obtained by subtracting the standard deduction of $\$135.00$, excess medical expenses of $\$157.00$ and the excess shelter amount of $\$435.00$ from the gross income of $\$548.00$. A household of one person with a net monthly income of $\$256.00$ is entitled to a monthly FAP grant of $\$449.00$ per month. RFT 260.

B. September, 2009 – October, 2009

In the present case for September and October, 2009, according to the aforementioned policy on budgeting, Claimant's shelter costs equal $\$159 + \$550 = \$709.00$ (A). 50% of the income less deductions = $\$331.00$ (B). $(A-\$709)-(B-\$331)=\$378.00$. Claimant, therefore, has a net monthly income of $\$284.00$. This was obtained by subtracting the standard deduction of $\$135.00$, excess medical expenses of $\$157.00$ and the excess shelter amount of $\$378.00$ from the gross income of $\$954.00$. A household of one person with a net monthly income of $\$284.00$ is entitled to a monthly FAP grant of $\$440.00$ per month. RFT 260.

C. November, 2009 – December, 2009

In the present case for November and December, 2009, according to the aforementioned policy on budgeting, Claimant's shelter costs equal $\$159 + \$550 = \$709.00$ (A). 50% of the income less deductions = $\$331.00$ (B). $(A-\$709)-(B-\$331)=\$378.00$. Claimant, therefore, has a net monthly income of $\$269.00$. This was obtained by subtracting the standard deduction of $\$135.00$, excess medical expenses of $\$172.00$ and the excess shelter amount of $\$378.00$ from the gross income of $\$954.00$. A household of one person with a net monthly income of $\$269.00$ is entitled to a monthly FAP grant of $\$445.00$ per month. RFT 260.

D. January, 2010

In the present case for January, 2010, according to the aforementioned policy on budgeting, Claimant's shelter costs equal $\$159 + \$550 = \$709.00$ (A). 50% of the income less deductions = $\$1068.00$ (B). $(A-\$709)-(B-\$534)=\$175.00$. Claimant, therefore, has a net monthly income of $\$895.00$. This was obtained by subtracting the standard deduction of $\$135.00$, excess medical expenses of $\$157.00$ and the excess shelter amount of $\$175.00$ from the gross income of $\$1360.00$. A household of one person with a net monthly income of $\$893.00$ is entitled to a monthly FAP grant of $\$258.00$ per month. RFT 260.

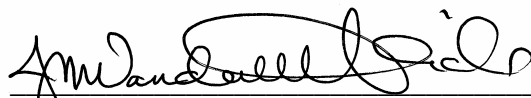
Accordingly, based upon the foregoing facts and relevant law, it is found that the Departments FAP calculations for August, 2009 – January, 2010 are REVERSED.

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 is REVERSED.
2. The Department shall reprocess Claimant's FAP case from August, 2009 – January, 2010 using the budgets as set forth above.
3. The Department shall supplement Claimant with any lost benefits she was otherwise entitled to receive.



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

Date Signed: 01/19/10

Date Mailed: 01/20/10

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:

