

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

Issue

[REDACTED]

Reg. No.: 201127292
No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: April 28, 2011
DHS County: Wayne County DHS (55)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 April 28, 2011. The Claimant was present and testified. Claimant's Representative, [REDACTED] also appeared by three-way phone conference. The Department of Human Services (Department) was represented by [REDACTED] Assistance Payments Worker.

ISSUE

Was the Department correct in its calculation of Claimant's Food Assistance Program (FAP) grant?

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 ongoing FAP recipient in a household of one person.
2. Claimant received \$916.00 in gross income per month.
3. Claimant had an obligation for shelter, utilities and heat.
4. The Department determined that claimant was entitled to \$144.00 in FAP benefits per month.
5. Claimant requested a hearing contesting the amount of the FAP grant.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) 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 administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in BAM, BEM and PRM, which includes the Reference Tables (RFT.).

The federal regulations define household income to include SSI and RSDI benefits, as well as earned income. 7 CFR 273.9(b) Only 80% of earned income is counted in determining FAP benefits. BEM 550. Under 7 CFR 273.9, as amended, and RFT 255, \$141.00 is deducted from the gross income of FAP recipients in a household of one in determining FAP grants. Under 7 CFR 273.9, deductions for shelter are also made. BEM 554.

In the present case, according to the aforementioned policy on budgeting, Claimant had a net monthly income of \$133.00. This was obtained by subtracting the standard deduction of \$141.00 and the shelter amount of \$458.00 from 80% of the gross earned income of \$916.00. The amount of a monthly food assistance allotment is established by regulations at 7 CFR 273.10. A household of one person with a net monthly income of \$133.00 is entitled to a monthly FAP grant of \$160.00 per month. RFT 260. The Department deducted from the grant a recoupment amount of \$16.00. Claimant did not raise an objection to a recoupment in her hearing request or at the hearing, so that issue is not before this Administrative Law Judge. The Department was therefore correct in its calculation of Claimant’s FAP grant of \$144.00.

Claimant and her representative state that Claimant is having difficulty making ends meet as she has limited income. However, while this Administrative Law Judge sympathizes with Claimant, I do not have the prerequisite jurisdiction to change Department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was correct in its calculation of Claimant’s FAP grant, and it is therefore ORDERED that the Department’s decision is AFFIRMED.

/s/ _____
Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

2012-27292/SCB

Date Signed: May 12, 2011

Date Mailed: May 12, 2011

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

SCB/ctl

cc:

