

**BEFORE THE BOARD OF PUBLIC ASSISTANCE  
OF THE STATE OF MONTANA**

In the matter of the Fair Hearing  
of Claimant

)

**FAIR HEARING  
DECISION** No. 06-319

After notice and hearing regarding the amount of Food Stamp benefits issued to Claimant by the Flathead County Office of Public Assistance, the Hearing Officer considered the evidence submitted at the Fair Hearing held on November 22, 2005. The Fair Hearing was conducted by phone between the Flathead County Office of Public Assistance, Kalispell, Montana, Claimant, Grand Junction, Colorado and the Office of Fair Hearings, Department of Public Health and Human Services, Helena, Montana. From this record, the Hearing Officer now makes the following disposition of the contested case.

**REPRESENTATION**

Claimant (hereinafter Claimant) represented herself. Judi Yeats, Eligibility Supervisor, represented Flathead County Office of Public Assistance (hereinafter Flathead County).

**IDENTIFYING INFORMATION**

Flathead County contends that Claimant received the correct amount of Food Stamp benefits for October 2005 by way of issuing a supplement after Claimant requested a hearing regarding the amount of Food Stamp benefits received. The supplement was issued after Flathead County conducted an Administrative Review and Flathead County feels that this should have resolved the issue. Claimant contends that Flathead County should have closed her case at the end of September

and since they failed to do that, the rent expense she incurred in Orlando, Florida and Grand Junction, Colorado should have been used to compute her Food Stamp benefits for October 2005. She also feels that she should have received more Food Stamp benefits than Flathead County issued for October 2005.

### **EVIDENTIARY RULING**

There were no objections to the evidence presented. County Exhibits #1 and #2 were admitted into the record.

### **FINDINGS OF FACT**

1. Claimant was receiving \$85 a month in Food Stamp benefits for the period of January 2005 through September 2005 based upon a household size of one. Effective for October, there was a small Federal increase in benefit level and Claimant's benefit increased to \$88. These benefits were calculated based on a monthly rent expense of \$109 and a standard utility allowance of \$348.

2. During September 2005, Claimant moved. Her case worker in Flathead County transferred Claimant's case file to Missoula County. Since Claimant moved out of her apartment in Flathead County, Food Stamp benefits were issued for October 2005 based upon no rent expense. The October benefits of \$18 were issued on October 4, 2005. Claimant appealed that issuance on October 5, 2005, because there was no allowance for a shelter deduction. Claimant spent a few days in Missoula, but never contacted the Missoula County Office of Public Assistance. From Missoula, Claimant went to Orlando, Florida for a week and then moved to Grand Junction, Colorado. When she applied for Food Stamp benefits in Colorado, she was denied because she was open for benefits in Montana.

Flathead County determined that Claimant was not given proper notice for a

reduction in Food Stamp benefits and issues a supplement of \$70 in Food Stamp benefits on October 28, 2005. This supplement was based upon the rent expense of \$109 plus a standard utility allowance of \$348 for a total of \$457, which was the same amount used to calculate previous monthly benefits.

3. On October 21, 2005, Claimant sent a FAX to Flathead County verifying that her rent expense, including utilities, was \$324 in Orlando, Florida and \$105 in Grand Junction, Colorado during September, for a total of \$429. Claimant now argues that the actual rent paid in Florida and Colorado should have been used to determine benefits as, in her opinion, she did not receive enough Food Stamp benefit because of this error in calculating the benefit level.

### **CONCLUSIONS OF LAW**

1. The Department of Public Health and Human Services has adopted and incorporated by reference 7 CFR 271 through 275 which are the Food Stamp regulations as adopted by the Food and Nutrition Services of the United States Department of Agriculture. ARM 37.78.1001.

2. 7 CFR 273.10(d)(4), provides that the State agency shall calculate a household's expenses based on the expenses the household expects to be billed for during the certification period. In this case, Claimant provided no evidence that she knew ahead of time what her rent expense would be. Therefore, Flathead County used the same amount as used in the certification period. Even had Claimant provided her anticipated rent expense, the fact remains that her actual rent expense was \$429. Flathead County's calculation was based upon a rent allowance of \$457. Had Flathead County used the rent expense actually incurred by Claimant, her benefits for October would have been less.

**ORDER**

As set out in the foregoing Findings of Fact and Conclusions of Law, Flathead County Office of Public Assistance properly calculated Claimant's Food Stamp benefits for October 2005. The appeal of Claimant is hereby denied.

**NOTICE:** If a party disagrees with this Decision, a request for board review may be made by filing notice of appeal to the Board of Public Assistance, P.O. Box 202953, Helena, Montana 59620. The notice of appeal must be received within fifteen days of the mailing of this decision.

**DATED:** December \_\_\_\_\_, 2005.

\_\_\_\_\_  
Harlan Rudolf  
Hearing Officer

**CERTIFICATION OF MAILING**

I certify that I have mailed a true and correct copy of the above FAIR HEARING DECISION by depositing same in the U.S. Mail postage prepaid on this \_\_\_\_\_ day of December, 2005 at Helena, Montana as follows:

Claimant  
Address  
City, ST Zip

\_\_\_\_\_  
Bonnie Brown  
Administrative Assistant

c: Judi Yeats, Flathead OPA