

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: 2009-19378
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 20, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on May 20, 2009.

ISSUE

Was the claimant's FAP allotment computed and allocated correctly?

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 had a redetermination on an FAP case due 3-30-09.
- (2) After redetermination, claimant's FAP allotment was reduced to \$116 from \$354.

(3) This allotment was calculated using a budget that assumed claimant had no additional out of pocket medical expenses.

(4) Claimant, due to disability, pays a chore provider \$250 per month.

(5) On 4-2-09, claimant requested a hearing on the case action, alleging that her chore provider bills should have been taken into account.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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 or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. PEM, Item 500. A standard deduction from income of \$135 is allowed for each household. Certain non-reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$300 for non-senior/disabled/veteran households. PEM, Items 500 and 554; RFT 255; 7 CFR 273.2.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the department did not properly compute the claimant's net income. The gross unearned income benefit amount must be counted as unearned income, which is \$1402 in the current case,

after counting the total member group's RSDI benefits of \$750 and the total SSI benefit, which is \$652. PEM 500. These amounts were verified by the claimant herself and the SOLQ, Departments Exhibits 5 and 6.

However, certain deductions are allowed to be made according to the regulations. As claimant is a member of an SDV group, deductions from medical bills are allowed to be factored in to determine net income. Among these allowed deductions are allowances for chore services, if the services are used to assist with a member of the group's disability. PEM 554. The Administrative Law Judge is satisfied that this requirement has been met.

Furthermore, the claimant alleges, and the Department did not rebut, that the claimant submitted these medical bills as required at the redetermination. It is unclear as to why they were never factored in, though the Department admitted that it was possible that the caseworker never received these bills. The Administrative Law Judge finds that this is likely, and while the claimant's caseworker is not strictly at fault for not processing the bills, it is still the case that the expenses must be factored into claimant's FAP budget. Therefore, the Department was in error when it did not do so.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to reduce the claimant's FAP allotment to \$116 was in error.

Accordingly, the Department's decision in the above matter is, hereby, **REVERSED**.

The Department is **ORDERED** to re-calculate claimant's FAP allotment budget taking

into account claimant's submitted medical bills. If the Department is unable to locate these bills, the claimant is ORDERED to supply them to the Department.

/s/ _____
Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 8, 2009

Date Mailed: June 9, 2009

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.

RJC/cv

cc:

[REDACTED]