

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: 2009-29852

Issue No: 3002; 3003

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

August 18, 2009

Jackson 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 August 18, 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 was receiving a Food Assistance Program (FAP) allotment budget of \$176.
- (2) On 2-27-09, claimant reported he had moved and was receiving Section 8 Assistance.

(3) Claimant's FAP budget was re-run in April, 2009 and claimant's new budget indicated claimant was eligible for FAP benefits of \$39.

(4) Claimant filed for hearing on 7-14-09, alleging that DHS incorrectly computed his budget, and therefore, allocated the wrong amount of FAP benefits.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Before proceeding, the Administrative Law Judge would point out that normally, a hearing request must be received by the Department up to 90 days after a negative action, or the hearing request will not be considered timely. PAM 600. Claimant's benefits were final as of April 1st, 2009; therefore, claimant's hearing request should have been dated before 7-01-09 in order to be considered timely. However, as the Department did not raise the issue, and there seems to be some problem with claimant's mental faculties that could give rise to good cause for the late hearing request, the Administrative Law Judge will ignore the issue of timeliness, especially as it has no bearing on the ultimate outcome of the case.

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. BEM, 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. BEM, 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 properly computed the claimant's gross income. The gross unearned income benefit amount must be counted as unearned income, which is \$671 in the current case, after counting the total member group's RSDI, SSI and State SSI benefits. BEM 500. These amounts were verified by the claimant himself. The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. The department in compliance with the federal regulations has prepared issuance tables which are set forth at Bridges Reference Manual, Table 260. The issuance table provides that a household with household size and net income of the claimant is eligible for an FAP allotment of \$39. The Administrative Law Judge has reviewed the budget and found no errors. Claimant himself was unable to point out specifically what parts of the budget he felt were in error, beyond a general feeling of anger towards the actual FAP amount. Therefore, the undersigned finds that the FAP allotment was computed correctly.

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 claimant's FAP benefits to \$39 was correct.

Accordingly, the Department's decision is AFFIRMED.

/s/

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

Date Signed: August 19, 2009

Date Mailed: August 19, 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:

