

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: 200934595
Issue No: 3002/3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 5, 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 October 5, 2009.

ISSUE

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

Is the claimant's current FAP allocation correct?

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 July, 2008.
- (2) After redetermination, claimant's FAP allotment was reduced to \$34.
- (3) Because claimant is a disabled senior, claimant was placed on a 2 year redetermination cycle.

- (4) There is no evidence that claimant was ever sent a mid-certification contact form.
- (5) On August 26, 2009, claimant requested a hearing on his FAP allotment, arguing that his FAP benefit is too low.

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).

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. Furthermore, an earned income deduction of 20% is allowed unless the budget is being run to determine an overissuance due to failure to report earned income. BEM 556.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the department did properly compute the claimant's net income during the initial

evaluation. The gross unearned income benefit amount must be counted as unearned income, which was listed at \$651 in the current case, after counting the total member group's SSI payments. BEM 500.

Furthermore, claimant's rent of \$181 was correct and verified at the time; this rental amount was low enough to disqualify claimant from receiving a shelter deduction, given that claimant only pays for telephone bills. Thus, claimant's net income of \$526 dollars appeared to be correct.

After comparing claimant's net income with the regulations contained at RFT 260, it appeared that the Department was correct when it awarded claimant an FAP allotment of \$10, initially, which was raised to \$34 after the 2009 stimulus package.

However, this is only part of our inquiry. BAM 210 specifically states that those on a 24 month redetermination cycle, as was claimant, should receive a mid-certification contact during the 12th month to share any changes in income. There is no evidence that claimant received this form. Furthermore, BAM 600 states that a claimant may request a hearing on an FAP allotment amount at any time. Claimant did so on August 26, 2009.

After reviewing the budget with updated numbers provided by the claimant, it appears that claimant's new SSI amount, combined with a higher standard deduction and higher rental amount would lead to an increase in claimant's FAP allocation from \$34 to \$42 dollars. As this should have been determined during a mid-certification contact in July, the undersigned holds that a failure to send this form was not harmless error, and therefore, the Department should re-run claimant's budget starting and reprocess his FAP allotment retroactively back to July, 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's initial budget was correct. However, a failure to send a mid-certification contact form in July, 2009, was incorrect.

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

The Department is ORDERED to re-calculate claimant's FAP allotment budget in accordance with the policies found in the Bridges Eligibility Manual. The Department is further ORDERED to re-verify claimant's alleged earned and unearned income totals before using them in the re-run budget. Furthermore, these changes shall be applied retroactively to the claimant's case as of the month of July, 2009. Should claimant be eligible for an increase in benefits, these benefits shall be awarded to the claimant retroactively to the month of July, 2009.



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

Date Signed: 11/13/09

Date Mailed: 11/23/09

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/dj

2009-34595/RJC

cc:

