

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: 2009-20434

Issue No: 3002; 3003

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 2, 2009

St. Joseph 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 telephone hearing was held on June 2, 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 3-20-09.
- (2) After redetermination, claimant's FAP allotment was cut off due to excess income.

(3) This allotment was calculated using a budget that did not provide claimant with the required 20% earned income deduction.

(4) Other errors were made in the budget.

(5) On 4-15-09, claimant requested a hearing on the case action, alleging that her FAP budget had been computed incorrectly.

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 \$138 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 not properly compute the claimant's net income. The gross unearned income benefit amount must be counted as unearned income, which was listed at \$1,421 in the current case, after counting the total member group's UCB and the child support payments. BEM 500. The child support payments to claimant, after review at the hearing, appeared to be incorrect.

Furthermore, an earned income deduction of 20% should have been applied to claimant's earned income totals. PEM 556. It does not appear that that was done, and claimant's income was processed without the earned income. This is only allowed if the budget is being processed to determine actual FAP totals rising from a failure by the claimant to report earned income. PEM 556. The Department has provided no evidence that this is the case.

It is unknown if a revised budget will affect claimant's FAP budget. However, the Administrative Law Judge has found that the errors in the budget are serious and numerous enough that it is impossible to determine the correct FAP allotment without starting the budget over from scratch. For that reason, the undersigned finds that the Department is in error and must recalculate claimant's budget. Should claimant be aggrieved by the new, revised budget, claimant can re-file for hearing on the Department's new FAP allotment determination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's calculations that resulted in a cut off of claimants FAP allotment were 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 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.

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

Date Signed: June 24, 2009

Date Mailed: June 24, 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]