

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: 2009-33346
Issue No: 3002/3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 21, 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 21, 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 an FAP recipient in Wayne County.
- (2) In June, 2009, claimant had a redetermination on his FAP case.
- (3) After redetermination, claimant's FAP allotment was terminated, as his composition group's net income exceeded the net income limit by \$137.

- (4) Among the income that was considered was claimant's receipt of \$1903 in income as a [REDACTED] in [REDACTED].
- (5) The Department was unaware that this income, while available in May, was not permanent income and stopped in June, 2009.
- (6) Claimant attempted to report this to the Department prior to case closure; however, claimant was unable to contact his caseworker.
- (7) The Department testified that if claimant had reported that this income had stopped, case closure could have been avoided.
- (8) Claimant's case was placed into negative action effective June 30, 2009.
- (9) On June 23, 2009, claimant requested a hearing, arguing that his FAP allotment was not computed properly given that the [REDACTED] income had stopped.

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 not 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 \$1655 in the current case, after counting the total member group's SSI payments and UCB benefits. BEM 500.

However, while the \$1903 in earned income may have been a correct figure for June, 2009, claimant testified that this payment was income for the month of May only, and stopped immediately after. The Department testified that if they had known that this income had ceased, case closure could have been avoided, and a new budget could be calculated for subsequent months. Policy supports this contention: BEM 550 states that if the Department determines that ineligibility will last for only one month, temporarily suspend issuance of benefits; do not close the FAP case.

Claimant testified credibly that he had tried to notify the Department of this fact before the date of case closure, but his caseworker did not answer his phone calls and the voice mail system would not take messages. The undersigned finds this testimony to be highly credible; the Department is not known for promptly answering phone calls and such complaints are both common and likely.


Therefore, in light of the Department testimony that negative action could have been avoided using this information, the undersigned finds that the fact that the Department was unaware of claimant's change of income is primarily the fault of the Department. If case closure could have been avoided, the Department is under a burden to avoid that case closure. Given that the great weight of the evidence shows that claimant's case would only have been closed for one month, the Department was in error when claimant's case was placed into permanent closure.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that while the Department's initial budget was correct, the Department's failure to evaluate subsequent months using information that claimant attempted to supply the Department 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 using the information already supplied by the claimant. Furthermore, these changes shall be applied retroactively to the claimant's case as of the date of July 1, 2009.



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

Date Signed: 12/17/09

Date Mailed: 12/21/09

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

cc:

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