

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: 2009-34618
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 7, 2009
Macomb 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 7, 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 in Wayne County.
- (2) On July 16, 2009, DHS received notice from an Automatic Fix and Find that claimant's wife was receiving earned income as a day care provider.

- (3) Claimant's FAP budget was re-run and claimant's new budget indicated claimant was ineligible for FAP benefits.
- (4) Claimant's case was put into closure, with a negative action date of July 28, 2009.
- (5) Claimant's wife's day care income was scheduled to end that month, but the Department was not notified of this before the case was closed.
- (6) Claimant filed for hearing on August 14, 2009, alleging that DHS incorrectly computed their budget, and that their case should not have closed because they reported the cessation of the day care income to the Department.

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. Only heat, electricity, sewer, trash and telephone are allowed deductions. BEM 554. Any other expenses are considered non-critical, and thus, not allowed to be deducted from gross income. Furthermore, RFT 255 states exactly how much is allowed to be claimed for each deduction. Policy states that \$33 is to be deducted for telephone expenses, and \$93 is to be deducted for electricity expenses, regardless of the actual bill.

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 \$1306 in the current case, after counting the total member group's UCB benefits of \$1148 per month and FIP benefits of \$158 per month. BEM 500. These amounts were verified by the claimant and by Department Exhibit 3. 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 ineligible for an FAP allotment. The Administrative Law Judge has reviewed the budget and found no errors. Claimant was unable to point out specifically what parts of the budget he felt were in error. Therefore, the undersigned finds that the FAP allotment was computed correctly.

With regard to the claimant's argument that his case should not have closed because the day care income was ending, the Administrative Law Judge must only note that there is no evidence that the Department was ever apprised of this fact. Claimant's hearing request was not submitted until August 14, more than 2 weeks after the case had been closed. While claimant testified that his wife notified the Department of this before case closure, the claimant was

unable to provide any evidence of this. The Department testified that the claimant did call with this information, but it was after case closure, and the claimant's were advised to reapply for benefits.

The Administrative Law Judge admits that, had the Department known before the case closure that claimant's income would be ceasing, the claimant's FAP case should have remained open. However, the undersigned is limited to deciding if the Department's action at the time of case closure was correct given the information that it had in its possession at the time. There is no evidence that the claimant notified the Department before case closure that the day income was stopping. Therefore, using the information it had at the time, the correct action was to close the case. This is what the Department did, and thus, their decision must be affirmed.

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 close claimant's FAP case was correct.

Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: 11/23/09

Date Mailed: 12/04/09

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.

2009-34618/RJC

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:

