

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201031311
Issue No.: 3002/3003/2026
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 21, 2010
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on July 21, 2010. The Claimant appeared and testified under oath. [REDACTED] ES appeared and testified under oath for the Department.

ISSUE

1. Was the claimant's FAP allotment computed and allocated correctly?
2. Was the claimant's FAP case properly closed when the Semi Annual Contact Report was not returned by the Claimant?
3. Did the Department properly compute the Claimant's Medical spend down deductible amount?

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. Claimant's FAP budget was recalculated after a change in income was reported by the Claimant based upon the Claimant's weekly pay stubs for December 2009 and January 2010. The pay stubs were confirmed as correct by the Claimant, however the Claimant believed they were higher than usual. Exhibit 1

3. The Claimant's FAP budget was computed again using the new earnings information and the Claimant's FAP benefits were decreased to \$33 per month.
4. The Claimant received a Notice of Case Action dated February 9, 2010 regarding the FAP decrease and a Medical deductible spend down amount of \$1354 based on the Claimant's income. Exhibit 4
5. The Department did not provide a budget showing the calculations used to determine the Claimant's spend down deductible amount.
6. Claimant's also received a request to complete a semi annual contact report which was due March 31, 2010. Exhibit 5
7. The Claimant received a Notice of Potential Food Assistance (FAP) Closure, dated March 10, 2010 which advised him that his FAP case would close 3/31/10 because the Claimant had not returned the Semi Annual Contact Report and verifications. Exhibit 6
8. The Claimant's FAP case closed on April 1, 2010.
9. Claimant filed for hearing on February 18, 2010 and the same hearing request was filed again on April 28, 2010.

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 \$132 is allowed for certain households. 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 \$459 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.

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 income amount must be counted as income, which is \$3183 in the current case, before any deductions. This amount was determined by adding together the four pay stubs for January 2010 which totaled \$2961 and dividing that amount by 4 to get the average weekly check amount. The average weekly check is multiplied by 4.3 to adjust for variances in months all in accordance and as required by policy. BEM 500. The amounts of the pay stubs were verified by the claimant during the course of the hearing. The Department's calculation of gross income is therefore correct. Additionally, the housing costs and shelter deduction was correctly computed. Thus the determination of the Claimant's FAP benefits amount to be \$33 per month is correct.

During the hearing the Claimant indicated that he thought the income amounts for January was higher than usual. If the Claimant has experienced a decrease in income he is urged to report same to his case worker by filing a change report as the decrease in income will most likely affect the amount of his FAP benefits and possibly the medical deductible spend down amount.

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 4 and net income of the claimant is eligible for an FAP allotment of \$33 per month.

The Administrative Law Judge has reviewed the FAP budget and found no significant errors. Claimant was unable to point out specifically what parts of the budget he felt were in error. Therefore, the undersigned finds that the Department correctly determined that the claimant's FAP benefit amount.

Closure of FAP Case

The Claimant's FAP case closed as of April 1, 2010 for failure to return the Semi Annual Contact Report. The Claimant testified credibly that he received the Semi Annual Report but did not respond or turn the requested information in. Additionally the Claimant admitted receiving the notice of potential Food Assistance Closure date March 1, 2010. Although the Administrative Law Judge appreciates the Claimant's candor and honesty, the Claimant neglected and failed to respond to a Semi Annual Contact Report or to contact his worker when he received the Notice that his FAP case was about to close. Under these circumstances it is found that the Department properly closed the Claimant's FAP case for failing to respond and provide the Department the requested information prior to March 31, 2010.

Claimant argued at hearing that the FAP closure should not have been effective because he had filed a request for a hearing and thought that would excuse him from responding to the Semi Annual Contact Report. This argument is not supported by the very Notice of Potential Food Assistance Closure and its clear message "Effective 3/31/10 you FAP case will be closed."

The Claimant is encouraged to reapply for Food Assistance Benefits so that he can begin receiving FAP benefits again if he is otherwise eligible.

Medical Assistance Spend Down Amount Calculation

The Administrative Law Judge is unable to determine how the Department calculated the amount of the Claimant's medical spend down deductible as no budget was provided computing same. Accordingly the Department did not sustain its burden to demonstrate that the spend down amount of \$1354 is correct. Accordingly the Department is ordered to recalculate the Medical spend down amount again and utilize the Claimant's gross earnings of \$3138 for January 2010 as a starting point. If the Claimant can demonstrate that his earnings have decreased in the months after January 2010 then he may be entitled to a lower deductible amount and the Department will be required to recompute again the medical assistance spend down amount in accordance with any change in income reported by the Claimant.

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 place claimant's FAP case into closure was correct and its action in that regard is AFFIRMED.

It is further found that based on the income earned by the Claimant in January 2010 the FAP allotment of \$33 per month is correct and is AFFIRMED.

Lastly, it is ordered that the Department's determination of the Claimant's medical spend down amount is REVERSED as no proof of its determination or the basis for its determination, including a budget was provided at the hearing.

Accordingly, the Department is ORDERED to re compute the medical spend down deductible again, utilizing the Claimant's January gross monthly earnings of \$3138 and if the Claimant provides the Department verification that his earned income has decreased the Department shall recomputed the spend down amount to account for the decrease in income, if any.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/02/2010

Date Mailed: 08/02/2010

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 of the rehearing decision.

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