

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

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 2010 36544
Issue No.: 3002/3003/6019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: June 21, 2010
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Lynn 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 June 21, 2010. The claimant appeared and testified. [REDACTED], Supervisor, [REDACTED] FIS Specialist and [REDACTED] ES appeared and testified on behalf of the Department.

ISSUE

1. Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits for the months May – November, 2009.
2. Whether the Department properly denied the Claimant Child Development and Care Program Application (CDC).

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds a material fact:

1. The Claimant was an active FAP recipient and reported a change in her unearned income on September 30, 2009. The Claimant's income was reduced as she stopped receiving disability income from her employer. The Claimant submitted a change report advising the Department of the change. Exhibit 8

2. The Department recalculated the Claimant's FAP budget and granted the Claimant an increase in FAP benefits effective February 1, 2010 by Notice of Case Action dated 1/20/10. . The budget prepared by the Department did not include a utility allowance for the Claimant's heat and is incorrect. Exhibit 7
3. The Claimant began working March 1, 2010 and applied for CDC benefits. The Claimant's income was verified by pay stubs in the following amount: 4/16/10 \$235; 4/23/10 \$340; 5/7/10 \$360; 5/14/10 \$360. The claimant also received unearned income from her daughter receiving RSDI in the amount of \$700. The Claimant's rent is \$700 and she pays her heat. Claimant reported a household group of three (3) individuals.
4. The Department failed to process the Claimant's change information regarding her income and recalculate the Claimant's FAP benefits in a timely manner. The Claimant should have received the increased FAP benefits retroactive to October 1, 2010.
5. The Claimant applied for Child Development and Care, (CDC) benefits on March 19, 2010 and sent her application for CDC to the Department via certified mail. The Department testified it never received the application. The application was properly addressed and was accepted by the Department for delivery on March 22, 2010. Claimant Exhibit 1
6. The Claimant reapplied for CDC benefits on June 1, 2010 and was told at the hearing that she would be denied benefits due to the fact that she did not qualify for CDC benefits based on her income. Exhibit 10
7. Claimant objected to the FAP calculations from October 2009 and the denial of her CDC application by the Department and filed a request for a hearing on May 17, 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).

The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. PEM/BEM 550. Under 7 CFR 273.9, as amended, \$135.00 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter are also made. PEM/BEM 554. Id. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

A. October 1, 2009 – March 1, 2010 FAP BENEFITS

In the present case, according to the aforementioned policy on budgeting, Claimant's shelter costs equal $\$700 + \$555.00 = \$1255.00$ (A). The Department did not include the Claimant's heat utility allowance in computing the budget which was incorrect. 50% of the adjusted gross income less deductions must be deducted from the Shelter costs to get the Shelter deduction. $AGI = (729 - \$132 = \$597.00 \div 2 = \$298)$. $(A\$1255) - (B-\$298) = \$957.00$. The shelter deduction is limited to the maximum shelter amount is \$459.00 which is the maximum the Claimant is entitled to even though the shelter deduction is greater than \$459.

The Claimant's net monthly income is \$185. The net monthly income determines the amount of food benefits the Claimant is entitled to. Net monthly income is obtained by subtracting the standard deduction of \$132.00 and the maximum excess shelter amount of \$459.00 from the gross income of \$729.00. A household of three people with a net monthly income of \$185.00 is entitled to a monthly FAP grant of \$470.000 per month. RFT 260.

B. March 1, 2010 through June 21, 2010

In the present case, according to the aforementioned policy on budgeting, Claimant's FAP budget was not submitted with the hearing evidence so the Department should rerun the budget to ensure the shelter costs of \$1255 were used in the current budget and the claimant's earned income which she reported to the Department in the amount of \$1392 per month should be utilized for the earned income amount.

The Claimant's earned income was computed as follows based on the pay stubs presented at the hearing, $(\$235 = \$340 = \$360 = \$360 = \$1295 \div 4 = \$323)$. BEM 505 pages 6 and 7. To get the gross monthly earned income the average weekly amount \$323 must be multiplied by 4.3 which yields a monthly earned income amount of \$1392. The unearned income must also be included for the RSDI income received by the Claimant's daughter. As the Current figure is not available the Department is required to determine same when recalculating the Claimant's net monthly income.

Child Development and Care

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Program Reference Manual (PRM).

The Claimant is employed and thus demonstrated eligibility for one part of the requirements for CDC eligibility, the need requirement as required by BEM 703. The Claimant because her group is not categorically eligible, must also meet the income eligibility requirement set forth in RFT 270 which provides if the groups gross monthly income exceeds \$1990 the group is not eligible for CDC benefits. In order to determine gross monthly income both earned and unearned income must be included in the calculation. BEM 505 page 6, BEM 503, page 20 and BEM 525 page 1. The claimant's gross income is determined based on the pay stubs available for the last thirty days. The Claimant's gross earned income of \$1392 is determined by averaging the 4 pay stubs she provided, dividing that sum by 4 to get the average weekly gross income and then multiplying by 4.3 to get the gross monthly earned income. BEM 505, page 6. ($\$235 + \$340 + \$360 + \$360 = \$1295 \div 4 = \$323 \times 4.3 = \$1392$). The Claimant's group also receives RSDI in the amount of \$713 which unearned income must also be added to the earned income for a total monthly gross income of \$2092. Because the Claimant's gross monthly income exceeds \$1990 the Claimant is not entitled to receive CDC benefits and is ineligible.

If the Claimant's income should decrease, the Claimant is encouraged to reapply for CDC. The issue of the Department's not authorizing the Claimant's CDC application which the Claimant sent to the Department certified mail on March 19, 2010 and received by the Department on March 22, 2010 is not addressed in this decision. It is found however that the Department did receive the application as it was properly addressed and therefore, by law is presumed to have been received. However, as the Claimant did not have a CDC provider during the period when the Department received the application and should have processed it, there is no remedy is available to the Claimant for this period.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED IN PART.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that the Department improperly calculated the Claimant's FAP allotment for the period October 1, 2010 through March 1, 2010 as it did not include heating allowance in determining the excess shelter allowance. The Department's determination denying the Claimant CDC application of June 1, 2010 is correct as the claimant's income exceeds the amount she is entitled to have for eligibility.

Accordingly, it is ORDERED:

1. The Department's FAP calculation for the period beginning February 1, 2010 and covering the period October 1, 2009 through March 1, 2010 is REVERSED.
2. The Department shall issue a supplement to the Claimant for FAP benefits in the amount of \$470 per month beginning October 1, 2009 through March 1, 2010 to supplement the Claimant for FAP benefits she was otherwise entitled to receive. For the period after February 1, 2010 the benefits already paid to the Claimant shall be accounted for when computing the supplement.
3. The Department is also required to recalculate the Claimant's FAP budget for the period March 1, 2010 through the date of the hearing to account for her earned income based upon the check stubs previously provided to the Department covering the period April 16, 2010 through May 14, 2010 as a result of her beginning employment March 1, 2010 to account for any change in FAP benefits resulting from the claimant earnings based upon the Claimant's advising the Department of her employment. For purposes of computing the budget the Department shall utilize \$1392 as the amount of gross monthly earned income. Further the Department shall use the Shelter costs amount of \$1255 in determining the Shelter deduction.
4. The Department's denial of the Claimant's CDC application dated June 1, 2010 is AFFIRMED.



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

Date Signed: 07/07/2010

Date Mailed: 07/07/2010

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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