

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.: 2010 37442
Issue No.: 3014
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 28, 2010
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 conducted from Detroit, Michigan on June 28, 2010. The Claimant appeared and testified along with his sister, [REDACTED]. [REDACTED], ES appeared on behalf of the Department.

ISSUES

Whether the Department properly calculated the Claimant's Food Assistance ("FAP") benefits effective 5/1/10?

FINDINGS OF FACT

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

1. Claimant was an active FAP recipient.

2. In April 2010, Claimant underwent a FAP redetermination at which point Claimant indicated that he and his mother prepare and eat food together. (Exhibit 1).
3. Claimant's FAP budget was recalculated to include the mother's income of \$1,745.00 in RSDI and \$90.29 in pension benefits. (Exhibit 1A & 1B).
4. Claimant's mother is a senior. Her medical expense were not included in the FAP budget.
5. As a result of the new FAP budget, Claimant's FAP benefits were reduced to \$16.00 per month. (FAP Budget attached as Exhibit 2).
6. The Department received Claimant's hearing request on May 18, 2010 protesting the reduction of FAP benefits and failure to include the mother's medical expenses.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

FAP benefits are paid based on an individual's family group. The relationship of the people who live together affects whether they must be included or excluded from the group. People included in the group include spouses and children (natural, step and adopted) who

purchase and prepare food together. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child has his/her own spouse or child who lives with the group. BEM 212, p. 1. The relationship(s) of the people who live together affects whether they must be included or excluded from the group. In order to determine a group composition, the Department must first determine if the individual must be included in the group. If they are not mandatory group members, the Department must determine if the individuals purchase and prepare food together or separately. BEM 212, p. 1. Persons customarily share food in common if:

- They each contribute to the purchase of food.
- They share the preparation of food, regardless of who paid for it.
- They eat from the same food supply, regardless of who paid for it.
- In general, persons who live together and purchase and prepare food together are members of the FAP group.

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. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 550. An SDV FAP group is one which has an SDV member which included a person at least 60 years old. BEM 550. The medical expenses of SDV persons in the eligible group can be considered in the FAP budget. BEM 554, p. 6.

In the subject case, Claimant's testimony reveals that Claimant and his mother buy and prepare meals together. The mother's income, therefore, was properly included in the FAP budget. All parties agree, however, that Claimant's mother is over the age of 60. Accordingly, the mother qualifies as an SDV (Senior/Disabled/Veteran) member and her ongoing medical expenses should have been taken into consideration to the FAP budget.

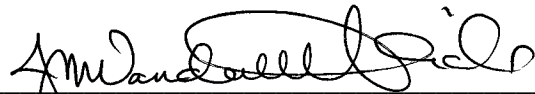
Based upon the foregoing facts and relevant law, it is found that the Department's FAP calculation is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly calculated Claimant's FAP benefits without the inclusion of the senior FAP member's medical expenses.

Accordingly, it is Ordered:

1. The Department's 5/1/10 FAP calculation is REVERSED.
2. The Department shall recalculate and reprocess Claimant's FAP benefits from 5/1/10 forward including any ongoing monthly medical expenses for Claimant's mother in the budget.
3. The Department shall supplement the Claimant for any lost benefits he was otherwise entitled to receive.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/12/2010

Date Mailed: 07/12/2010

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 date of the rehearing decision.

JV/cjp

cc:

