

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

IN THE MATTER OF:



Reg. No.: 201040807
Issue No.: 3002/3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 26, 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 26, 2010. The claimant appeared and testified. [REDACTED], FIS appeared on behalf of the Department.

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) The Claimant is a FAP recipient and currently receives \$279.
- 2) The Claimant completed a Semi Annual Contact Report in a timely manner. The Semi Annual Report was not entered in a timely manner but the Claimant's benefits were not interrupted.
- 3) The budget prepared by the Department for the period May 1, 2010 through May 31, 2010 is correct and the FAP benefit as calculated is \$279 per month. This budget includes the Claimant's 4 foster children her earned income and the unearned income from the foster children. Exhibit 1.
- 4) The Claimant had unearned income from Foster Children she cared for in the amount of \$844.34 biweekly. To determine gross monthly income the

bi weekly check is multiplied by 2.15. The gross unearned income is \$1815.

- 5) The Claimant also had earned income of approximately \$1300 per month. The Claimant provided two bi weekly pay receipts in the amount of \$634.56 and \$610.56 for a total gross income of \$1245. The total is divided by 2 to get the average check and then multiplied by 2.15. This yields a gross monthly earned income of \$1338. ($\$634 + \$610.56 = \$1245 \div 2 = \$622.50 \times 2.15 = \1338).
- 6) The Claimant had 7 members in her group at the time of the Semi Annual Contact Report.
- 7) The Claimant's mortgage is \$901 per month. The Claimant was also given a credit for utilities in the amount of \$555.
- 8) The Department prepared a budget adding the Claimant's four foster children to the group and the foster care income which caused the Claimant's FAP benefits to decrease.
- 9) The Department prepared a budget for May 2010 which utilized the above information confirmed by the Claimant and it appears based on the information that the Department correctly computed the Claimant's FAP benefits to be \$279 a month.
- 10) The Claimant requested a hearing on May 7, 2010 after receiving in error a Notice of potential closure of her FAP case for failure to complete a Semi Annual Contact Report.

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 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.

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 for foster child care is \$1815 and must be counted as unearned income before any deductions. The total gross monthly income which includes the Claimant's earned income is \$3153 and was correctly computed by the Department. BEM 500. These amounts were verified by the claimant during the course of the hearing.

The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. Claimant stated that her rent and housing expenses was \$901 per month. Claimant was given a utility deduction of \$555. The Administrative Law Judge computed claimant as having a net income of \$2576. 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 7 and net income of the claimant is eligible for an FAP allotment of \$279. The Administrative Law Judge has reviewed the budget and found no significant errors.

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 award claimant a FAP allotment of \$279 based on its budget computed for the period May 1, 2010 through May 31, 2010 is correct.

Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: 07/28/2010

Date Mailed: 07/28/2010

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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