

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.: 2010-44264  
Issue No.: 3002/3003  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: August 18, 2010  
Wayne County DHS (19)

**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 August 18, 2010. The claimant appeared and testified. [REDACTED], FIM and [REDACTED], Assistant Payments Worker 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 in FAP recipient and currently receives Food Assistance (FAP) benefits in the amount of \$141 per month.
2. In August and September 2009 the Claimant received \$200 per month in FAP assistance.
3. Beginning June 2009 the claimant paid no rent and the Department was so advised by the Plymouth Housing Commission dated October 12, 2010 and her Food Stamps were adjusted and reduced accordingly in October 2009. Exhibits 1 and 2.
4. The claimant currently pays rent in the amount of \$104 per month, the claimant receives SSI income of \$674 per month and the claimant

receives a quarterly supplement resulting in additional unearned income of \$14 per month for a total of \$702.

5. On July 21, 2010 the department was advised by the Plymouth Housing Commission that the claimant currently pays rent in the amount of \$104 per month. Exhibit 3.
6. The Department increased the Claimant's FAP benefits beginning August 2010 after receiving notice of the Claimant's change in rent expense. This change in rent caused the Claimant's FAP allotment to increase to \$141.
7. The claimant's FAP group consists of one member and is a senior disabled group.
8. The department processed a change in the allotment of the claimant's food assistance beginning August 1, 2010 which FAP budget included the claimant's rent of \$104 and unearned income in the amount of \$702. Exhibit 4
9. The Claimant testified that she provided a change in rent statement to the Department on June 1, 2010 and did not hear from the Department.
10. When the Claimant received the DHS hearing summary dated July 21, 2010 she spoke to her caseworker to advise her about the change in rent.
11. The Department sent a Verification Checklist to the Claimant dated July 21, 2010 which was responded to by the claimant's landlord, the Plymouth Housing Commission in a timely manner on July 21, 2010. Exhibit 5. The Department properly computed the Excess shelter deduction acknowledging the claimant's rent in the amount of \$104 and the awarded the claimant a heat and utility allowance in the amount of \$555. The resulting excess shelter deduction in the amount of \$374 is correct as computed by the Department. Exhibit 4.
12. The FAP budget submitted by the Department for September 1, 2010 is not correct as it does not include the Claimant's current rent of \$104 per month. Exhibit 6
13. The Department properly computed the Claimant's gross income and included the Claimant's SSI \$702 and also credited the Claimant the required standard deduction of \$132. Exhibit 4

14. The Claimant's hearing request was received by the Department on July 14, 2010 protesting the decrease in food assistance.

### **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 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 \$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 numbers contained in the documents submitted by the Department and finds that the Department properly computed the claimant's gross unearned income and credited the Claimant the standard deduction and thus properly computed the FAP budget for the gross income test. . The income figures utilized by the department were confirmed by the claimant. BEM 500.

Claimant stated that her rent is now \$104 per month beginning June; however, the Claimant did not verify her rent increase until July 21, 2010 when her landlord responded to the request for rent verification. Unfortunately, without the rent verification from the Claimant's landlord the Department cannot process a change in food assistance until it officially heard from the Claimant's landlord. The Department properly and timely processed the change as required by BAM 220 page 8 within 10 days and made the new FAP amount effective August 1, 2010. Claimant was given a utility deduction maximum of \$555.

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The Claimant's FAP allotment of \$141 per month is correct.

The partial budget for September 2010 is not correct as it does not include the Claimant's rent of \$104 in the Shelter expenses and must be included in the calculation of benefits for September. Exhibit 6

Based upon the claimant's confirmation of the various income figures and her rent and payment of heating expense, the department's computation the claimant's FAP benefits in the amount of \$141 is correct. The Claimant's FAP benefits decreased initially in October 2009 because she was not paying rent and thus the amount of her rent shelter expense deduction was zero. Likewise her FAP benefits increased in August 2010 when her rent increased and was accounted for by the Department. The Administrative Law Judge has reviewed the budget and found no errors.

If the Claimant incurs more than \$35 per month in medical expenses she may be entitled to a deduction of her medical expense if she can provide the Department receipts of her monthly expenses and receipts for the expenses. The Claimant is encouraged to seek her caseworker's assistance with determining if her medical expenses may qualify as a further deduction from her FAP benefits. This medical expense may cause her FAP benefits to increase. BEM 554, page 8.

### **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 \$141 is correct and is properly computed.

Accordingly, the Department's decision is AFFIRMED. The Department is also required to utilize the rent of \$104 in the September FAP budget calculation



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

Date Signed: 8/23/2010

Date Mailed: 8/23/2010

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**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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