

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: 2010-12096

Issue No: 3002

Case No:

Load No:

Hearing Date:

January 7, 2010

Newaygo County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 [REDACTED] on January 7, 2010.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance Program (FAP) allotment?

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 is a FAP recipient.
- (2) On September 22, 2009, the Department received Claimant's Redetermination, DHS-1010. (Exhibits 2-3)
- (3) On October 29, 2009, the Department completed FAP budgets which resulted in a monthly FAP allotment of [REDACTED] for November 1, 2009 –

November 30, 2009, [REDACTED] for December 1, 2009 – December 31, 2009 and [REDACTED] for January 1, 2009 – January 31, 2009. (Exhibits 45-53)

(4) On October 29, 2009, the Department mailed Claimant a Notice of Case Action which explained the reduction in Claimant's FAP allotment to [REDACTED] for November 1, 2009 - November 30, 2009 and [REDACTED] for December 1, 2009 – October 1, 2010. (Exhibits 62-65)

(5) On November 25, 2009, the Department received the Claimant's hearing request protesting the reduction in her FAP benefits.

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 (DHS or department), 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 Bridges Reference Manual (BRM).

For FAP purposes, all earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means ALL income that is not earned and includes FIP, RSDI, SSI and UB. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected.

Prospective budgeting is the best estimate of the client's future income. BEM 505

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15.

BEM 505

In the instant case, it was agreed by the Department and Claimant that the issue of [REDACTED] has been resolved and, as a result, Claimant has been supplemented [REDACTED] for January 2010 and will receive a [REDACTED] supplement for December 2009. It was also agreed by the Department and Claimant that Claimant should not have been sanctioned (removed from the FAP group), therefore, the Department will issue Claimant a supplement for [REDACTED] for December 2009 and [REDACTED] for January 2010. Finally, Claimant's monthly FAP allotment will be [REDACTED] effective February 1, 2010.

With the above said, based on the testimony and documentation offered at hearing, I do not find that the Department established that it acted in accordance with policy in computing Claimant's FAP allotment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department acted in accordance with policy in computing Claimant's FAP allotment.

Accordingly, the Department's FAP eligibility determination is REVERSED, it is SO ORDERED. The Department shall:

- (1) Issue Claimant supplemental benefits she is entitled to, as described above.
- (2) Notify Claimant in writing of the Department's revised determination(s).
- (2) Claimant retains the right to request a hearing if she would like to contest the Department's revised determination(s).

/s/
Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 13, 2010

Date Mailed: January 13, 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.

SMB/db

cc:

