

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.: 2010-12447
Issue No.: 1015/3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 19, 2010
Wayne County DHS (49)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was held in Detroit, Michigan on Wednesday, May 19, 2010. The Claimant appeared and testified by telephone. [REDACTED] appeared on behalf of the Department.

ISSUE

1. Whether the Department properly calculated the Claimant's cash assistance ("FIP") effective November 2009?
2. Whether the Department properly determined the Claimant's monthly Food Assistance ("FAP") benefits?

FINDINGS OF FACT

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

1. The Claimant is a FIP and FAP recipient.
2. The Claimant receives \$674.00 in Social Security Income. (Exhibit 2)

3. In October 2009, the Claimant delivered her third child.
4. As a result of the increase in group size, the Claimant's FIP benefits increased to \$420.00/month effective November 2009. (Exhibit 3)
5. The Claimant pays \$60.00 for shelter expense and is responsible for utilities. (Exhibit 4)
6. The Claimant's FAP group size is 4.
7. The Department calculated the Claimant's monthly food allotment as \$425.00. (Exhibit 4)
8. On October 29, 2009, the Department notified the Claimant of the FIP and FAP benefit amount.
9. On November 25, 2009, the Department received the Claimant's timely written request for hearing.

CONCLUSIONS OF LAW

The Family Independence Program ("FIP") was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services administers the FIP program pursuant to MCL 400.10, *et seq.* and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children ("ADC") program effective October 1, 1996. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

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"), formerly 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 BAM, BEM, and BRM.

Group composition is the determination of which persons living together are included in the FAP program group. BEM 212 All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 The Department must consider the gross benefit amount before any deduction, unless Department policy states otherwise. *Id.* For FAP purposes, all expenses are converted to a nonfluctuating monthly amount. BEM 554

Shelter expense is an allowable FAP expense. *Id.* Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. *Id.* In determining a FAP allotment, a Heat and Utility Standard is used whenever a FAP group contributes to the heat expense separate from rent, mortgage, or condominium/maintenance payments. BEM 554

Agency error over-issuances are not pursued if the over-issuance is estimated to be less than \$125.00 per program. BAM 705

In the instant case, the Department correctly calculated increased the Claimant's monthly FIP benefit effective November 2009 based on an increase in group composition. As a result of the increased monthly FIP benefit, the Department recalculated the Claimant's FAP allotment. The Department correctly included the Claimant's Social Security Income and cash assistance (FIP) benefit amount as unearned income; used the proper group size; included shelter expense; and used the heat and utility standard. The Claimant disagreed with the calculation however she failed to include the FIP benefit in her unearned income. During the hearing, it was discovered that the Claimant's quarterly State Supplemental Income was not included in the Claimant's

unearned income which should have been included. Had the supplement been included the Claimant's FAP benefit would have been reduced by approximately \$4.00. The agency error over-issuance is less than the \$125.00 threshold thus should not be pursued. Ultimately, the Department acted in accordance with Department policy when it determined the Claimant's FIP amount and recalculated the Claimant's FAP allotment and included the Claimant's increased FIP benefit amount. The Department erred when it failed to include the State Supplemental Income in determining the FAP budget. Based upon the foregoing facts and relevant law, it is found that the Department's FIP determination is AFFIRMED and the Department's FAP determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly determined the Claimant's FIP benefit. It is further found that the Department's FAP determination is not upheld.

Accordingly, it is ORDERED:

1. The Department's FIP determination is AFFIRMED.
2. The Department's FAP determination is REVERSED.
3. The Department shall recalculate the Claimant's FAP budget to include the Claimant's quarterly State Supplemental Income as unearned income in accordance with department policy.
4. The Department shall notify the Claimant of the FAP determination in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 5/28/2010

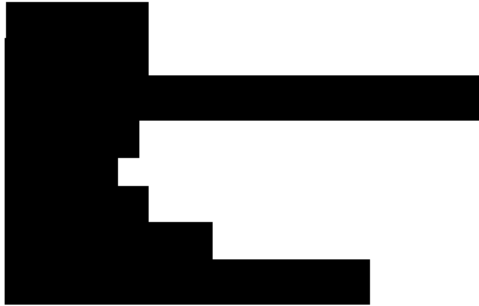
Date Mailed: 5/28/2010

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 date of the rehearing decision.

CMM/jlg

cc:

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