

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: 201012472
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 27, 2010
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 on January 27, 2009.

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) Claimant was receiving a Food Assistance Program (FAP) allotment budget in Wayne County in the amount of \$211.
- (2) In November, 2009, DHS made a redetermination of claimant's benefits.

- (3) Claimant's FAP budget was re-run and claimant's new budget indicated claimant was eligible for FAP benefits in the amount of \$181 starting on December 1, 2009.
- (4) Among the items used in determining this number was an SOLQ which showed claimant was eligible for an SSI benefit of \$674.
- (5) However, this same SOLQ showed claimant was having \$67.40 of the money removed as part of an overpayment recoupment.
- (6) Claimant filed for hearing on November 24, 2009, alleging that DHS incorrectly computed her budget.

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. 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 \$487 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. \$555 dollars may be deducted if the claimant has heating costs.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the Department did not properly compute the claimant's gross income. The gross unearned income benefit amount must be counted as unearned income, which the Department determined to be \$674 in the current case, after counting the total member group's SSI benefits. BEM 500. However the SOLQ submitted by the Department as Department Exhibit 7 shows that claimant is paying the Social Security Administration \$67.40 of this amount every month as part of an overpayment. This amount should have been deducted from claimant's gross income. BEM 500 states that amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income. \$67.40 is being deducted from claimant's gross SSI payment—this amount should not have been considered in the FAP allotment budget.

Thus, the Administrative Law Judge has reviewed the budget and found an error. As the budget contains an error, the Department did not correctly calculate claimant's benefits, and must re-calculate the budget. Should this recalculation result in a higher FAP allotment, the Department should issue supplemental benefits for the months affected.


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 \$181 was

incorrect. The Department erred when it included the amount claimant was paying to the Social Security Administration because of an SSI overpayment amount as part of claimant's gross unearned income.

Accordingly, the Department's decision is REVERSED.

The Department is ORDERED to re-run claimant's FAP allotment budget, taking into account the fact that claimant is having \$67.40 deducted from her SSI check each month. If the new calculations result in a higher FAP allotment, the Department is FURTHER ORDERED to issue supplemental benefits to the claimant retroactive to the date of negative action.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/22/10

Date Mailed: 03/26/10

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.

RJC/dj

cc:

