

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.: 20112907

Issue No.: 3002

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

April 29, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 on November 10, 2010. After due notice, a telephone hearing was conducted on April 29, 2010 from Detroit, Michigan. The Claimant appeared and testified. [REDACTED] FIM, and [REDACTED] ES appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits for the months of October and November, 2009?

Whether the Department properly processed the Claimant's Child Development and Care ("CDC") benefits following Claimant's 1/6/10 application?

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 was an active FAP recipient.
2. Claimant was laid off from her employer in September of 2009.
3. Claimant was up for redetermination and verifications were requested and due on 9/1/09. Claimant's FAP benefit period was due to expire on 9/30/09.
4. Claimant's benefits were terminated and no FAP benefits issued for the months of October or November 2009 due to excess income and Claimant's failure to submit verification of stopped employment.
5. On December 12, 2009, the Claimant submitted verification for her wages being stopped. (Exhibit 1, p. 1).
6. The Department then adjusted Claimant's FAP benefits and issued a supplement for \$234.00 for October 2009, \$234.00 for November 2009 and an additional \$32.00.
7. The FAP budget for October and November 2009 shows Claimant receiving \$2,687.00 in earned income. (Exhibit 2).
8. Claimant has a group size of five.
9. Claimant testified that she received a gross severance check of \$1200 in September. Claimant's last pay check was in August. Claimant also testified that she received \$624.00 every two weeks in unemployment compensation benefits.
10. Claimant is responsible for \$550.00 per month in rent along with utilities.
11. Furthermore, Claimant applied for CDC benefits on January 6, 2010 after she began a part time job.
12. The CDC case has not yet been registered or processed.

13. Claimant objected to the FAP calculations for October and November 2009, as well as the failure to make a determination about CDC and filed this appeal. The Department received the Claimant's Request for Hearing on March 9, 2010.

CONCLUSIONS OF LAW

A. FAP

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"), formally 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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. PEM/BEM 550. Under 7 CFR 273.9, as amended, \$135.00 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter are also made. PEM/BEM 554. Id. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

When calculating the benefit amount, according to PEM/BEM 556, the Shelter set offs are added together to equal A. The income after deductions is divided by two and equals B. A-B=C. The lesser of C or the maximum shelter amount set forth in RFT 255 will be deducted

from the reduced income in determining the final net amount. The amount of food assistance allotment is established by regulations at 7 CFR 273.10 based on a group's net income.

In the present case, according to testimony, Claimant received \$1200 in income in the month of September along with unemployment compensation benefits. Claimant did not receive any earned income in October or November. The Administrative Law Judge finds that the Department should have calculated October and November FAP benefits using actual income. The budgets show earned income was used even though Claimant did not earn any income in October or November. The undersigned has recalculated the FAP benefits using only the unemployment compensation benefits. Therefore, Claimant's income would properly be calculated as \$1352 in unemployment compensation benefits (\$624.00 biweekly x 26 weeks / 12 months).

According to the aforementioned policy on budgeting, Claimant's shelter costs equal $\$550.00 + \$555.00 = \$1105.00$ (A). 50% of the income less deductions = $\$591.00$ (B). $(A - \$1105) - (B - \$591) = \$514.00$, however, the maximum excess shelter amount is $\$459.00$. Claimant has a net monthly income of $\$723.00$. This was obtained by subtracting the standard deduction of $\$170.00$ and the excess shelter amount of $\$459.00$ from the gross income of $\$1,352.00$. A household of five people with a net monthly income of $\$723.00$ is entitled to a monthly FAP grant of $\$567.00$ per month. RFT 260.

Based upon the foregoing facts and relevant law, it is found that the Department's FAP payments for October and November 2009 were insufficient and are REVERSED.

B. CDC

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal

Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT).

The Department is required to process applications within the standard of care set forth in the applicable regulations. The standard of care for CDC benefits is 45 days. BAM 115, p. 11. In the subject case, the Department has requested additional information, but has not registered or processed Claimant's CDC application within the standard of promptness. Accordingly, based on the above reference findings of fact and rules of the Law, the Department shall register and process Claimant's CDC application.

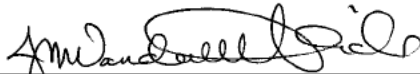
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly calculated the Claimant's FAP allotment and failed to register or process Claimant's 1/6/10 CDC application.

Accordingly, it is ORDERED:

1. The Department's FAP calculation for October and November 2009 are REVERSED.
2. The Department shall reprocess Claimant's FAP benefits for the months of October and November 2009 using the budget as set forth above.
3. The Department shall supplement Claimant with any lost benefits she was otherwise entitled to receive.

4. The Department shall register and process Claimant's CDC application of 1/6/10.

/s/ 

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 19, 2010

Date Mailed: May 19, 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.

JV/hw

cc:

