

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: 2010-13350

Issue No: 3002

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 3, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 February 3, 2010. The Claimant appeared and testified.

[REDACTED] FIS appeared on behalf of the Department.

ISSUE

Was the Department correct in determining Claimant's FAP benefits?

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 a Food Assistance benefit recipient receiving \$169 per month in benefit.
- (2) Claimant has unearned income of \$210 per week from unemployment compensation.

- (3) Claimant has earned income of \$162.61 per month from his job as a home health aid.
- (4) The Department determined that claimant was entitled to \$61 per month in FAP benefits beginning December 1, 2009.
- (5) Claimant requested a hearing on December 4, 2009 contesting the amount of Food Assistance benefits.

CONCLUSIONS OF LAW

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 Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

Department policy dictates how income paid to home help providers should be characterized. Policy states, “enter home help services payments received by the individual providing the service as that individual’s employment income”. BEM 503 p.12

In the present case, claimant has \$840 unearned income from Unemployment benefits and earned income from work as a home help provider. The Department incorrectly treated the \$162 per month Claimant receives for work done as a home help provider as unearned income.

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 benefits, and it is ORDERED that the Department's decision in this regard be and is hereby REVERSED. FAP benefits shall be rebudgeted with Claimant's income from his work as a home help provider treated as earned income, any increase in benefit due the Claimant shall be paid by a supplement.

/s/ _____
Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 25, 2010

Date Mailed: March 25, 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.

AM/ctl

Cc:

