

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: 201014075
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 3, 2010
Oakland 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 the Department's request for reconsideration and rehearing. After due notice, a hearing was held on June 9, 2010.

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 Oakland County in the amount of \$192.
- (2) On September 24, 2009, claimant completed and returned a DHS-1010, Semiannual Contact.

- (3) Claimant's FAP budget was re-run in October using claimant's information and claimant's new budget indicated claimant was eligible for FAP benefits in the amount of \$36 starting on November 1, 2009.
- (4) Claimant filed for hearing on December 9, 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 500. A standard deduction from income of \$132 is allowed for households of claimant's size. 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 \$459 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 shelter expense. Policy states that \$34

allowed to be claimed for telephone expenses, and \$102 is allowed to be claimed for non-heat electricity expenses, regardless of the actual bill. \$555 dollars may be claimed if the claimant has heating costs. \$57 may be claimed for water or sewer expenses.

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 \$1119 in the current case, after counting the total member group's GM pension benefits and FIP benefits. BEM 503. The pension and FIP benefit amounts were verified by the claimant during the course of the hearing. After review, the undersigned finds no error in these calculations.

However, the Department calculated claimant's earned income as \$1380. After following the procedures outlined in BEM 556 and BEM 505, the Administrative Law Judge has calculated claimant's earned income to be \$1080, after adding the average monthly totals from both of claimant's employment sources. This is clear Department error.

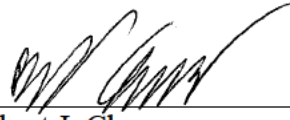
As the Administrative Law Judge has reviewed the budget and found errors in the income numbers used to calculate claimant's FAP benefit amount, claimant's FAP budget, as given, is incorrect. As the budget contains errors, the Department did not correctly calculate claimant's benefits, and must therefore re-calculate the budget.

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 \$36 was incorrect.

Accordingly, the Department's decision is hereby REVERSED.

The Department is ORDERED to re-run claimant's FAP allotment budget and issue to the claimant any supplemental benefits to which she may be entitled, in accordance with policies found in the Bridges Administrative and Eligibility Manuals.



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

Date Signed: 06/16/10

Date Mailed: 06/16/10

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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:

