

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: 2010-15715
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 24, 2010
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 telephone hearing was held on March 24, 2010. Claimant personally appeared and testified.

ISSUE

Did the department correctly compute the amount of Food Assistance Program (FAP) benefits claimant was to receive effective February 1, 2010?

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 FAP recipient with a FAP allotment of \$200 per month when he started receiving RSDI.
2. Department computed a new FAP budget with RSDI which resulted in a FAP decrease to \$16 per month.

3. Department notified the claimant that his FAP benefits will be reduced effective February 1, 2010. Claimant requested a hearing on January 4, 2010 and department deleted negative action pending the outcome of this hearing.

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 Program Reference Manual (PRM).

Claimant testified that he only receives under \$300 per month in RSDI, not \$748 per month as used by the department on the FAP budget, as SSA is deducting child support from this income. Departmental policy states:

CHILD SUPPORT EXPENSES

Allow the following child support expenses:

- . the amount of court-ordered child support and arrearages paid by the household members to non-household members in the benefit month.
- . court-ordered third party payments (e.g., landlord or utility company) on behalf of a non-household member.
- . legally obligated child support paid to an individual or agency outside the household, for a child who is now a household member, provided the payments are not returned to the household.

Do not allow more than the household's legal obligation. The child support expense **must be paid** to be allowed. BEM, Item 554, pp. 4-5.

Department's representative states that she will contact SSA office to verify any child support being deducted out of claimant's RSDI checks, and will re-do the FAP budgets upon receipt of such verification.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department may have incorrectly computed the amount of FAP benefits claimant was entitled to receive effective February 1, 2010.

Accordingly, department shall:

1. Obtain verification from SSA of any child support payment being deducted out of claimant's RSDI checks.
2. Recompute claimant's FAP budget with the new information, if he indeed does not receive \$748 per month in RSDI and has a legitimate child support obligation.
3. Notify the claimant in writing of this determination.
4. Department may conclude that the claimant still received more benefits than he was entitled to receive even with reduced RSDI amount, as he continued to receive FAP allotment based on \$0 income pending the outcome of this hearing.

SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 6, 2010

Date Mailed: April 7, 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.

cc:

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