

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: 201016236
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 8, 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 March 8, 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 a FAP recipient in Macomb County.
2. Claimant's FAP budget was run after a redetermination, and claimant's budget indicated claimant was ineligible for FAP benefits.
3. Claimant filed for hearing on January 11, 2010 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 \$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 deduction.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the Department properly computed the claimant's gross income. The gross earned income amount must be counted as income, which is \$2465 in the current case, before any deductions.

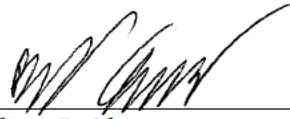
BEM 500. These amounts were verified by the claimant during the course of the hearing. While there is some question as to whether income from claimant's daughter was counted at too high of an amount, even by taking claimant's testimony into this matter at face value, the claimant's income would be far too great to qualify for the FAP program.

The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's FAP benefits. Claimant verified that income amounts used for herself personally were generally accurate. While claimant's daughter's income may have been calculated too high, after careful examination, the Administrative Law Judge concludes that, even if the daughter's income were removed entirely, it would not make a material difference in the case. Therefore, the error, if there was an error, was harmless. The Administrative Law Judge computed claimant as having a net income of \$2465. The Department, in compliance with the federal regulations, has prepared issuance tables which are set forth at Bridges Reference Manual, Table 260. The issuance table provides that a household with household size and net income of the claimant is eligible for a FAP allotment of \$0. The Administrative Law Judge has reviewed the budget and found no significant errors. Claimant was unable to point out specifically what parts of the budget she felt were in error. Therefore, the undersigned finds that the Department correctly determined the claimant's FAP allotment of \$0.

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 close claimant's FAP case for excess income was correct.

Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: 05/20/10

Date Mailed: 05/24/10

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:

