

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: 201017049
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 8, 2010
Wayne 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 applicant in Wayne County.
- (2) Claimant's FAP budget was run at application and claimant's budget indicated claimant was ineligible for FAP benefits.
- (3) Claimant has a large child support obligation that is taken out of his paycheck automatically that was not used in his budget.

- (4) Claimant filed for hearing on January 20, 2010, alleging that DHS incorrectly computed his 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 \$2170 in the current case, before any deductions.

BEM 500. These amounts were verified by the claimant during the course of the hearing. The undersigned notes that this amount is above the gross income limit for FAP benefits.

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 were generally accurate. The Administrative Law Judge computed claimant as having a gross income of \$2170 dollars. 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 an 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 he felt were in error. Therefore, the undersigned finds that the Department correctly determined the claimant's FAP allotment of \$0.

The undersigned would note that claimant carries an extremely large child support burden, which takes most of his income each month automatically, before he even receives his paycheck. Claimant has attempted to legally reduce this burden, but has been denied by the courts. The Department representative acknowledged at hearing that this child support obligation was unusually high, as a percentage of income. If the claimant were allowed to continue on to a net income test, and the relevant deductions were applied, claimant would almost certainly be eligible for FAP benefits. Unfortunately, the FAP regulations require a gross income test; RFT 250 sets out a gross income limit for every FAP applicant, regardless of expenses, which include child support. As such, the claimant must be disqualified from FAP eligibility before the undersigned can even consider his expenses.

While this process is certainly unfair, as claimant is unable to change or alleviate this expense, and this money is taken out of his paycheck before he receives it, the undersigned has

no equitable powers and cannot arbitrarily ignore regulations, despite his sympathies towards the claimant's plight. The Department's decision was correct, even if it necessarily ignored the harsh realities of the situation.

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 deny claimant's FAP application 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: 05/25/10

Date Mailed: 05/26/10

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:

