

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: 201018810
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 22, 2010
Macomb County DHS(20)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 22, 2010 by telephone in Detroit, Michigan. The Claimant appeared and testified. Martina Brown, Assistant Payment Worker and Kristy Manning, Supervisor appeared and testified on behalf of the Department.

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. The Claimant was a FAP recipient whose case closed on January 14, 2010 due to excess income.

2. The claimant receives regular employment earnings and unemployment compensation benefits for under employment. The Claimant earns \$13.77 an hour and works on average 32 hours per week, although her hours have been cut back.
3. The Claimant's FAP budget was run in December and her benefits were decreased to \$16.00 per month. The December budget did not contain an earned income deduction and is incorrect. Exhibit 1
4. In January 2010, the claimant received biweekly earnings from her employment as follows: \$416.54 and \$977.67. Claimant Exhibits 1 and 2
5. As a result of these earnings, the Claimant gross countable income was \$1498. ($415.54 + \$977.67 = 1394.21 \div 2 = \$697.10 \times 2.15 = \$1498$).
6. The Gross income test, run by the Department for the January budget, finds earned income for the claimant to be \$1713, an amount not supported by the Claimant's exhibits and is in error. The January budget also does not include unearned income from unemployment benefits received in the gross income test which is also in error. Exhibit 2
7. In February 2010, the claimant received biweekly earnings from her employment as follows: \$884.72 and \$481.95. Claimant's Exhibits 3 and 4
8. Based on the Claimant's February earnings, the Claimant's gross countable income was \$1,469. ($\$884.72 + \$481.95 = \$1366.67 \times 2.15 = \1469)
9. The February budget, prepared by the Department, found the Claimant's earned income to be \$1713 which is in error based on the pay stubs provided by the Claimant. Exhibit 3

10. The Claimant's FAP budget was run in March 2010 and her benefits were calculated to be \$16.00. Exhibit 4
11. The New budget for March 2010 does not contain an earned income deduction. It calculated the Claimant's earned income amount of \$1239 as earned income ineligible for earned income deduction but offered no basis for this designation. Exhibit 4
12. The Claimant's FAP budget was run in February 2010 and her benefits were decreased to \$00. Exhibit 3
13. The Claimant has a FAP group of 2.
14. The Claimant's housing expense is \$488 per month and the Claimant pays her heat.
15. The Healthy Kids medical benefits were reinstated by the Department prior to the hearing and the Claimant is satisfied with the benefits.
16. The Claimant's request for hearing was received by the Department on December 22, 2009. The Claimant's request for hearing protested her food stamp reduction and loss of Healthy Kids benefits for her son. The Claimant requested that her benefits continue but the Department failed to continue the Claimant's benefits as she had requested. Exhibit 5.
17. The claimant's FAP case closed on January 14, 2010 due to excess income.

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 attempted to review the FAP budgets for December 2009, January 2010, February 2010 and March 2010 and finds that the Department improperly computed the claimant's gross income in all four budgets, including not computing the earned income properly and failing to include the earned income deduction in December and March. The gross unearned income amounts were not reviewed but it is clear that these amounts fluctuate due to the fact that the Claimant has fluctuating earned income. The information

provided by the department was incomplete as regards unearned income from unemployment benefits but this income must be included for purposes of the gross income test and should be carefully and separately examined and calculated by the Department. The Claimant received varying amounts of unearned income due to the fact that she had employment earnings which also fluctuated.

As the Administrative Law Judge has reviewed the budgets provided and prepared by the Department and found errors in the income numbers used to calculate claimant's FAP benefit amount, the budgets as provided by the Department, are incorrect. As the budgets contain errors, the Department did not correctly calculate claimant's benefits, and must therefore re-calculate the budgets.

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 terminate the Claimant's benefits in January, due to excess income, was in error. The Department's calculation of the Claimant's earned income and its failure to include an earned income deduction, as noted in the Findings of Fact, was also in error. Therefore, the Department's determinations must be REVERSED.

Accordingly, the Department is ORDERED as follows:

The Department is ORDERED to re-run claimant's FAP allotment budgets for the months of December 2009 through March 2010 using the actual earnings received as income from her job as established by the claimant through paystubs for those months which are \$1498 for January and February \$1469.

The Department is also to include, in the FAP Budgets, the fluctuating unearned income amounts as well as the earned income deductions in all the recalculated budgets. The

Department is further directed to include the Claimant's shelter expense and heat expense when calculating the excess shelter amount.

The Department shall issue supplemental benefits to the Claimant if she is deemed eligible after the budgets are properly recomputed in accordance with this Decision and Order and in accordance with policies found in the Bridges Administrative and Eligibility Manuals, retroactive to December 2009.



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/06/10

Date Mailed: 05/13/10

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.

LMF/dj

cc:

