

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: 201019172
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 18, 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 18, 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 Wayne County in the amount of \$668 prior to redetermination.
- (2) Claimant's FAP budget was run after a redetermination and claimant's budget indicated claimant was eligible for FAP benefits in the amount of \$451
- (3) Claimant's gross income was calculated and showed an amount of \$1023.

- (4) The gross income amount was calculated incorrectly.
- (5) Claimant filed for hearing on January 25, 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 500. A standard deduction from income of \$144 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 \$1023 in the current case, after counting the total member group's UCB benefits. BEM 503. The UCB benefit amounts were verified by the claimant during the course of the hearing. However, the sum total of claimant's UCB is \$916, not the \$1023 originally determined by the Department as the claimant's unearned income. This is a clear error in the Department's calculations. This amount was arrived at by multiplying claimant's weekly UCB amount of \$213 by 4.3 as proscribed by BEM 500. It is unknown how the Department arrived at a budgetable bi-weekly UCB amount of \$476. \$213 would have to be multiplied by roughly 2.23 to arrive at that income amount—that multiplier is nowhere to be found in the regulations.

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.

The Administrative Law Judge will note that several other issues were brought up during the hearing, including a dispute over FAP disbursements dating from March 2009. The undersigned will only state that he can only decide the case before him and no other issue is within his jurisdiction. The current issue is claimant's FAP budget from an action dated January 14, 2010, and the undersigned will consider no other issue.

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 \$451 was incorrect.

Accordingly, the Department's decision is REVERSED.

The Department is ORDERED to re-run claimant's FAP allotment budget, using the correct unearned income amount, and issue any supplemental benefits to which the claimant 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: 06/29/10

Date Mailed: 07/01/10

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:

