

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████
Claimant

Reg No: 201019789
Issue No: 3002
Case No: ██████████
Load No: ██████████
Hearing Date:
March 15, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing on August 25, 2009. After due notice, an in person hearing was conducted on March 15, 2010 in Detroit, Michigan. The Claimant appeared and testified. ██████████ of ██████████ represented Claimant. ██████████ ES, appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective 2/1/10.

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds a material fact:

1. The Claimant is an active FAP recipient.

2. Claimant testified that she receives RSDI survivor's benefits in the amount of \$133.30 x 3 for a total of \$399.90. (Exhibit A1).
3. Claimant reported a household group of four (4) people.
4. Claimant testified that she pays rent in the amount of \$189.00 per month and is also responsible for her utilities, including gas.
5. The Department calculated FAP benefits and reduced them to the amount of \$275.00 per month effective 2/1/10. FAP benefits were then reduced to \$252.00 effective 3/1/10.
6. The Department testified that because Claimant's underemployment adjusts monthly as her wages fluctuate, Claimant's FAP benefit also adjusts monthly.
7. Claimant objected to the reduction in FAP benefits and filed this appeal. The Department received the Claimant's Request for Hearing on February 2, 2010.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et. seq.* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. PEM/BEM 550. Under 7 CFR

273.9, as amended, \$144.00 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter are also made. PEM/BEM 554. Id. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

When calculating the benefit amount, according to PEM/BEM 556, the Shelter set offs are added together to equal A. The income after deductions is divided by two and equals B. $A - B = C$. The lesser of C or the maximum shelter amount set forth in RFT 255 will be deducted from the reduced income in determining the final net amount. The amount of food assistance allotment is established by regulations at 7 CFR 273.10 based on a group's net income.

A. January, 2010

In the present case, according to the aforementioned policy on budgeting, for the month of January, 2010, Claimant's shelter costs equal $\$189.00 + \$550.00 = \$744.00$ (A). 50% of the income less deductions = $(\$399.00 \text{ unearned income} + \$0 \text{ earned income} + \$565.20 \text{ unemployment} + \$121.18 \text{ Child support} - \$144)/2 = \$470.00$ (B). $(A - \$744) - (B - \$470) = \$274.00$. Claimant has a net monthly income of \$667.00. This was obtained by subtracting the standard deduction of \$144.00 and the excess shelter amount of \$274.00 from the gross income of \$1085.00. A household of four (4) people with a net monthly income of \$667.00 is entitled to a monthly FAP grant of \$467.00 per month. RFT 260.

B. February, 2010

In the present case, according to the aforementioned policy on budgeting, for the month of February, 2010, Claimant's shelter costs equal $\$189.00 + \$550.00 = \$744.00$ (A). 50% of the income less deductions = $(\$399.00 \text{ unearned income} + 80\%(\$399.00 \text{ earned income}) + \43

unemployment + \$146.52 Child support - \$144)/2 = \$381.00 (B). (A-\$744)-(B-\$381)=\$363.00.

Claimant has a net monthly income of \$400.00. This was obtained by subtracting the standard deduction of \$144.00 and the excess shelter amount of \$381.00 from the gross income of \$907.00. A household of four (4) people with a net monthly income of \$400.00 is entitled to a monthly FAP grant of \$548.00 per month. RFT 260.

It is apparent that Bridges is notifying the Department about changes in the amount of underemployment compensation received which was inputted into the reduced FAP budgets. However, the amount of earned income used in the budget has remained the same. As Claimant is receiving underemployment, the undersigned calculated FAP benefits using the actual amount of income received. If the Department is going to recalculate the FAP benefits based on the change in underemployment compensation benefits, the Department must also adjust the amount of income earned. In the alternative, the Department may use a prospective of three months average of underemployment compensation benefits and three months actual wages received to calculate FAP benefits for the future.

Based on the analysis of Claimant's actual income for January and February as set forth above, this Administrative Law Judge finds that the FAP benefits were not properly calculated. Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly calculated the Claimant's FAP allotment.

Accordingly, it is ORDERED:

1. The Department's FAP calculations for February and March, 2010 are REVERSED.

2. The Department shall recalculate and reprocess Claimant's FAP case for February and March, 2010 using actual income, child support and unemployment benefits received for the months of January and February, 2010 as set forth in the FAP budgets above.
3. The Department shall supplement Claimant with any lost benefits she was otherwise entitled to receive.
4. The Department shall calculate FAP benefits going forward by actual underemployment compensation benefits received and actual wages received for each month or, in the alternative, use a prospective of three months average actual underemployment benefits and actual earned income received. If the income is prospected, the amount of underemployment used should not change unless the income is also adjusted.

/s/ 

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 6, 2010

Date Mailed: April 6, 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.

JV/hw

cc:

