

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.: 2010-21779
Issue No.: 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 24, 2010
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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. After due notice, a telephone hearing was conducted from Detroit, Michigan on March 24, 2010. The Claimant appeared and testified; [REDACTED] also testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly budgeted wages as employment income for Claimant's FAP benefits beginning 10/2009?

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 an ongoing FAP recipient.

2. DHS originally budgeted zero income for Claimant's spouse when calculating FAP benefits.
3. Claimant's spouse worked as a football coach between 8/09-10/09.
4. Claimant's spouse received a single check for his employment as a coach; he received \$2487.59.
5. DHS budgeted the employment income over a 12 month period when calculating Claimant's FAP benefits.
6. Claimant submitted a hearing request claiming the employment income is an asset and should be disregarded for calculating FAP benefits.
7. DHS subsequently budgeted the income over a three month period (8/09-10/09).

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").

Claimant's primary argument was that the money her spouse receives from coaching football is an asset, and therefore should not be considered in calculating FAP benefits. BEM 400 reads "Assets means cash, any other personal property and real property." BEM 500 defines income as, "a benefit or payment received by an individual which is measured in money." Claimant's spouse receives a payment measured in money for coaching football. Common sense

and policy mandate that the money received by Claimant's spouse for coaching football is employment income. Income is appropriately included in calculating FAP benefits.

BEM 505 lists different types of income and how each income is to be budgeted. BEM 505 defines contractual or single payment income as, "Income that is received in one month(s) that is intended to cover more than one month. For example, a teacher on a yearly contract who is paid over the nine month school year; or the single payment distributed quarterly from casino profits." The policy further states, "when income is received in one month but is intended to cover several months (such as, contractual income, farm income, etc.), establish a monthly average amount if the benefit month is one of the months covered by the income."

When DHS began to budget the coaching income, it was budgeted over a 12 month period. Claimant's spouse only worked three months. Per BEM 505, the income is properly budgeted over the period for which the income is intended to cover, the three months that Claimant's spouse was employed. DHS should divide the single payment by three to determine monthly income and budget the average monthly amount from 8/09-10/09.

DHS submitted an "Employment- Pay Details" screen from the DHS budgeting system, Bridges, indicating the income was properly budgeted over a three month period. This change occurred following Claimant's hearing request. The changes appear to accurately reflect DHS policy and the orders of this decision, however, the undersigned will not officially affirm the accuracy of those budgets. Claimant is entitled to examine these budgets and may submit a future hearing request subject to the orders of this decision.

DECISION AND ORDER

The actions taken by DHS prior to Claimant's hearing request are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly processed changes on Claimant's FAP benefits. It is ordered:

1. Claimant's spouse's coaching wages are income
2. The income should be budgeted over a three month period (8/09-10/09) to reflect the time that Claimant's spouse was employed

"REVERSED" refers to the original actions of DHS to budget the coaching income over a 12 month period. The subsequent correction by DHS to budget the income over a three month period is not addressed by this decision to allow Claimant appropriate due process in examining the case actions.



Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 4/2/2010

Date Mailed: 4/2/2010

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.

CG/jlg

2010-21779/CG

cc:

