

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: 201022704
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 29, 2010
Macomb 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 29, 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 received a Food Assistance Program (FAP) allotment budget in Macomb County in the amount of \$16 for October of 2009.
- (2) Claimant's budget showed an excess shelter deduction of \$325 for October of 2009.
- (3) The excess shelter deduction amount was calculated incorrectly.

- (4) Claimant filed for hearing on February 1, 2009 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 \$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 reviewed the FAP budget and finds that the Department did not properly compute the claimant's excess shelter deduction. The excess shelter deduction takes into account all applicable housing expenses, which the Department determined to be \$325 for October 2009 in the current case. However, the record indicates a housing cost of \$676.75 and heat/utility standard of \$555, culminating in a total shelter amount of \$1232. Along with a total income amount of \$1222 and a standard deduction of \$132, the appropriate excess shelter deduction for the month of October 2009 is \$687, not the \$325 originally determined by the Department. Claimant receives over the \$459 standard housing deduction because she is a member of an SDV group. This is a clear error in the Department's calculations.

As the Administrative Law Judge has reviewed the budget and found errors in the excess shelter deduction amount 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.

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 \$16 for October 2009 was incorrect.

Accordingly, the Department's decision is REVERSED.

The Department is ORDERED to re-run claimant's FAP allotment budget for the month of October 2009, using the correct excess shelter deduction for that month, 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: 06/22/10

Date Mailed: 06/23/10

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:

