

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.: 2010-23805

Issue No.: 3002

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

March 29, 2010

Oakland County DHS (2)

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 29, 2010. The Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS under-issued Claimant Food Assistance Program (FAP) benefits for 11/2009 and 12/2009?

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 applied for FAP on 11/10/09.
2. Claimant is part of a FAP group of 2.
3. No member of Claimant's FAP group qualifies as senior, disabled or disabled veteran.

4. Claimant receives \$774 per 2 weeks in UCB.
5. Of Claimant's \$774, \$50 of the amount is due to federal stimulus funds.
6. Claimant has a monthly mortgage of \$3345.44.
7. Claimant is eligible for the maximum heat utility standard.
8. DHS calculated Claimant's FAP using the above listed numbers.
9. DHS originally issued \$11 in FAP benefits for 11/2009.
10. DHS originally issued \$16 in FAP benefits for 12/2009.
11. Claimant submitted a hearing request on 1/6/10 regarding his amount of FAP.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

Claimant did not dispute any specifics of his FAP budget. Claimant receives \$774/2 weeks in UCB income. \$724/2 weeks was used as the countable income portion. Per BEM 505, the biweekly income was multiplied by 2.15 to convert it to a full 30 days of income resulting in a monthly income of \$1556. A standard deduction of \$132 was correctly subtracted and Claimant received the maximum excess shelter deduction of \$459. Claimant's net income was calculated to be \$965. Under RFT 260 the correct issuance for a FAP group of 2 and a net income of \$965 is \$77 per month.

Bridges prorates benefits for the month of application, beginning with the date of application, when the group is eligible for the application month. BAM 115. In the present case, Claimant applied on 11/10/2009 which would make Claimant eligible for 21 days in the application month (to and including 10th to the 30th). The 21 day timeframe is 70% of a full month of benefits. 70% of Claimant's \$77 FAP issuance is \$54.

Based on a Bridges Benefit Summary Inquiry, Claimant was only originally issued \$11 in FAP benefits for 11/2009 and \$16 in FAP benefits for 12/2009. It is found that DHS incorrectly under-issued FAP benefits to Claimant for 11/2009 and 12/2009.

DHS made adjustments to Claimant's FAP after Claimant's hearing request. The supplements that Claimant received appear to have resulted in \$87 in FAP benefits for 11/2009 and \$125 in FAP benefits for 12/2009. It is found that Claimant ultimately did not receive less FAP benefits than to which he was entitled.

Though the undersigned lacks jurisdiction over DHS actions that occurred following Claimant's hearing request, DHS appears to have over-supplemented Claimant for benefits in all months from 11/2009-4/2010. The supplements appear to be the result of a policy change in Bridges Policy Bulletin (BPB) 5/1/2010. Per BPB 5/1/10, DHS is to exclude \$25/week of UCB payments in calculating FAP benefits; the policy change is effective beginning with 11/2009 FAP benefits. Also, specialists are to input the full gross budgetable UCB amount (\$774/2 weeks) and Bridges automatically adjusts the income in accordance with the policy. DHS is under-budgeting Claimant's income by inputting \$724/2 weeks in gross income for Claimant. Bridges then automatically reduced Claimant's income \$50/2 weeks from the \$724 instead of the correct income of \$774. Claimant may be responsible for any overissuance of FAP benefits caused by this agency error.

DECISION AND ORDER

The actions taken by DHS are AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS originally under-issued Claimant's FAP benefits for 11/2009 and 12/2009 but Claimant was supplemented benefits so that he was not-under-issued. Claimant appears to have been over-issued FAP benefits in each of those months. It is left to DHS discretion and policy whether recoupment is sought for any FAP benefits caused by the agency error over-issuance.

Christian Gardocki

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

Date Signed: 4/8/2010

Date Mailed: 4/8/2010

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.

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