

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.: 2010-24603
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 26, 2010
Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 in Detroit, Michigan on Monday, April 26, 2010. The Claimant appeared and testified. The Claimant was represented by [REDACTED] of [REDACTED]. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated the Claimant's Food Assistance ("FAP") benefits effective October 2009?

FINDINGS OF FACT

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

1. The Claimant is a FAP recipient.
2. The Claimant's group size is 2.

3. The Claimant receives Retirement, Survivor's, Disability Insurance ("RSDI") income in the monthly amount of \$1057.40. (Exhibit 3)
4. In October 2008, the Claimant received approximately \$85.00 in income for child care. (Exhibit 3)
5. The Claimant's group member receives income in the amount of \$993.40. (Exhibit 3)
6. The Claimant has a monthly shelter obligation in the amount of \$799.07 and is responsible for utilities. (Exhibit 3, p. 3)
7. The Department calculated the Claimant's FAP allotment as \$16.00/month. (Exhibit 3)

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"), formerly 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 Program Administrative Manual ("PAM")/Bridges Administration Manual ("BAM"), the Program Eligibility Manual ("PEM")/Bridges Eligibility Manual ("BEM"), and the Program Reference Manual ("PRM")/Bridges Policy Glossary ("BPG").

Group composition is the determination of which persons living together are included in the FAP program group. PEM/BEM 212 For FAP purposes, all expenses are converted to a nonfluctuating monthly amount. PEM/BEM 554 All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. PEM/BEM 500 The Department must consider the gross benefit amount before any deduction, unless Department policy states otherwise. *Id.* In determining a FAP allotment, a

Heat and Utility Standard is used whenever a FAP group contributes to the heat expense separate from rent, mortgage, or condominium/maintenance payments. PEM/BEM 554 Shelter expense is an allowable expense and includes rent payments. *Id.*

In the instant case, the Claimant disagreed with the reduction in the FAP allotment from what was previously budgeted. For the prior benefit year, the Claimant's group size was three. At redetermination, the Claimant reported that a group member no longer lived with her. Apparently, the Department failed to remove the member and his income. On November 23, 2009, a hearing was held which resulted in a decision ordering the Department to recalculate the FAP allotment by reducing the group size and removing the departing member's income. In attempting to implement the decision, the Department discovered that the Claimant received RSDI income which was not (but should have been) considered in determining the FAP eligibility. The Claimant filed a request for hearing and the Department, through its certification, requested reconsideration in light of the RSDI income.

As previously stated, the Claimant's RSDI income was not budgeted. During the hearing, the Department submitted the budget (Exhibit 3) for the benefit period from October 1, 2009 through October 31, 2009. The Claimant agreed with the income figures used in calculating the October 2009 budget as well as the group size, shelter obligation, and utilities standard. Although the Claimant disagreed with the FAP allotment, the Department established that it acted in accordance with Department policy when it included the Claimant's RSDI income which resulted in a decrease in the FAP allotment from the prior benefit period. Accordingly, the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that the Department acted in accordance with department policy when it calculated the Claimant's FAP allotment effective October 2009.

Accordingly, it is ORDERED:

The Department's FAP eligibility determination is AFFIRMED.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 5/4/2010

Date Mailed: 5/4/2010

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.

CMM/jlg

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