

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.: 2010-2526
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
February 11, 2010
Wayne County DHS (41)

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 Thursday, February 11, 2010. The Claimant appeared, along with [REDACTED], and testified. [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. In September 2009, the Department discovered that the Claimant's spouse's income was not budgeted.

3. The FAP budget was redone resulting in a reduction of FAP benefits from \$146.00/month to \$16.00/month. (Exhibits 1, 10)
4. On September 3, 2009, the Department sent a Notice of Case Action to the Claimant informing him of the benefit reduction. (Exhibit 8)
5. In October 2009, the Department received the Claimant's written request for hearing. (Exhibit 9)
6. The Claimant's group size is 2.
7. The Claimant receives \$1,292.00/month in RSDI and a \$255.00/month pension. (Exhibit 3)
8. The Claimant's spouse receives \$642.00 each month in unearned income (RSDI). (Exhibit 5)
9. The Claimant receives a \$14.00/month State supplement.
10. The Claimant's monthly shelter expense is \$742.00. (Exhibit 10)
11. The Claimant is responsible for utilities. (Exhibit 10)
12. During the period at issue, the Claimant paid \$96.40 each month as his Medicare Premium, Part B. (Exhibit 4)
13. During the period at issue, the Claimant's spouse paid \$96.50 each for for her Part B, Medicare Premium. (Exhibit 4)
14. The Claimant and his spouse pay, monthly, \$142.00 each for Medicare Plus. (Exhibit 6)
15. Through October 31, 2009, the Claimant paid \$909.58 in out-of-pocket prescription drug costs. (Exhibit 7)

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 554/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. The Claimant testified that he informed his case worker and brought in documentation regarding his Medicare Plus premium that he and his wife paid each month as well as the co-pays associated with the prescription drug medication. These figures were not used in determining the Claimant’s FAP budget. The Department established that the

correct shelter expense and utility standard were used. The Department budgeted \$2,189.00 of unearned income. This figure consists of \$1,292.00 RSDI (Claimant), \$692 RSDI (spouse), and a \$255.00 pension. The Claimant receives a \$14 State supplement which was not included. Ultimately, because the Claimant's FAP calculation was only partially correct, the Eligibility Notice is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that the Claimant's FAP budget is not correct.

Accordingly, it is found:

1. The Department's FAP eligibility determination is REVERSED.
2. The Department shall recalculate the Claimant's FAP allotment effective October 2009 in accordance with this decision.
3. The Department shall supplement for any lost benefits (if any) that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.

Colleen M. Mamelka

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

Date Signed: 02/19/2010

Date Mailed: 02/19/2010

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

cc:

