

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: 201027071
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 17, 2010
Oakland County DHS 03

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 telephone hearing was held in Detroit Michigan on June 17, 2010. The Claimant appeared on her own behalf. Darcy Reich, ES Supervisor, Teresa Bartell, ES appeared on behalf of the Department.

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 is a Food Assistance (FAP) recipient and was also receiving AMP.
- (2) Since applying for these benefits, the Claimant began receiving unemployment benefits and was deemed ineligible for AMP due to excess income. Once the Claimant understood that his income exceeded the AMP limit, he agreed with the Department's action with regard to the closing of his AMP case.

- (3) The Claimant's FAP benefits were reduced by the Department due to the change in the Claimant's unearned income from receipt of unemployment benefits.
- (4) The Claimant receives \$238 weekly in gross unemployment benefits resulting in a gross monthly income of \$1023. This is the only income the Claimant receives. Exhibit 1.
- (5) The Claimant was scheduled for and completed a redetermination appointment on January 5, 2010. Exhibit 6
- (6) The Claimant originally requested a hearing regarding the change in his FAP benefits by Notice of Case Action dated February 8, 2010, which determined his benefits to be \$38 based on gross unearned income of \$1130. The Budget summary indicated that the Department also was entitled to a recoupment in the amount of \$10. Exhibit 2.
- (7) A new budget was completed as a result of the hearing, which used a monthly gross unearned income of \$1023 from unemployment benefits, which is correct. Exhibit 3
- (8) The Claimant has received the maximum shelter deduction of \$459 per month based upon lot rental and loan repayment in the amount of \$623. In computing the shelter expense, the Claimant receives a standard utility deduction of \$555 for a total shelter amount of \$1176 which is correct. Exhibit 3
- (9) The Claimant's shelter expense deduction, \$459 does not change even if the loan payment is not included in his shelter expenses. Exhibit 4
- (10) Based upon the most recent budget, the claimant should be receiving \$70 a month in FAP benefits. Exhibit 3

- (11) The Claimant's monthly FAP benefit is subject to a \$10 recoupment amount. Exhibits 2 and 3.
- (12) The Claimant was scheduled to receive \$38 in FAP benefits for the months of January, February and March 2010, which is incorrect. Exhibit 5
- (13) Claimant filed for hearing on February 13, 2010, which was received by the Department on February 18, 2010, claiming that DHS incorrectly computed his FAP 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, Item 500. A standard deduction from income of \$132 is allowed for each household. 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 \$300 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 deduction.

In this case, the Administrative Law Judge has reviewed the FAP budget numbers contained in the Notice of Case Action and finds that the Department improperly computed the claimant's gross income. The monthly gross unearned income amount must be counted as unearned income, which is \$1023 in the current case, before any deductions. BEM 500. The amount received in unemployment benefits, \$238 was verified by the claimant during the course of the hearing. The gross income is determined by multiplying the weekly income by 4.3 to account for a whole month.

The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. Claimant stated that his lot rent is \$456 per month. Claimant was given a utility deduction maximum of \$555. The Administrative Law Judge computed claimant as having a net income of \$432. Net income is determined by taking Adjusted gross income, ($\$1023 - 132 = \891) minus the excess shelter deduction, ($\$891 - \$459 = \$432$). The Department, in compliance with the federal regulations, has prepared issuance tables which are set forth at Bridges Reference Manual, Table 260. The issuance table provides that a household with household size and net income of the claimant is eligible for an FAP allotment of \$70. The Administrative Law Judge has reviewed the budget and found no errors.

Apparently, the Department has also sought recoupment for an over-issuance of FAP benefits from the Claimant which issue is not decided by this decision, as the hearing did not involve the issue of recoupment. The Department is recouping \$10.00 per month out of the FAP benefits. Therefore, the undersigned finds that the Department correctly determined the

claimant's FAP allotment of \$70 and that the prior budget set forth in the Notice of Case Action of February 8, 2010, is incorrect.

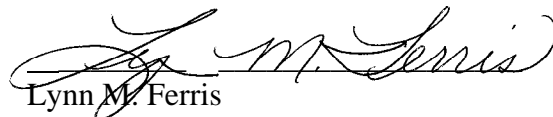
The hearing summary submitted by the Department indicates that the claimant was entitled to \$38 per month per the Notice of Case Action issued 2/8/10, which is incorrect and used a gross unearned income of \$1130. This discrepancy was not explained by the Department at the hearing. Based on the information provided by the Department at the hearing, it is determined that the gross income calculation is incorrect as is the monthly benefit amount contained in the Notice of Case Action.

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 \$38 for the months of January, February, and March 2010 was in error.

Accordingly, the Department's decision is REVERSED.

The Department is ORDERED to issue a supplement to the Claimant for FAP benefits in the amount of \$70 a month for the months of January, February and March, 2010. The monthly FAP benefit allotment is subject to any recoupment the Department is entitled to receive.



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/07/10

Date Mailed: 07/08/10

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.

LMF/dj

cc:

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