

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant

Reg. No.: 201028978

Issue No.: 3015

Case No.: ██████████

Load No.: ██████████

Hearing Date:
April 26, 2010

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 held on April 26, 2010. The Claimant appeared at the hearing testified. ██████████ ██████████ ES appeared on behalf of the Department.

ISSUE

Was the Department correct in determining Claimant's FAP benefits?

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 benefits in November 2009.
- (2) On December 21, 2009 the Department determined that Claimant's FAP benefit would be \$15 per month.

- (3) Claimant requested a hearing on March 8, 2010 contesting the determination of FAP benefits.
- (4) At hearing Claimant's wife [REDACTED] requested that she be added to the BRDIGE Card for the household.

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"), formally 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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Program Reference Manual ("PRM"). Educational Income-All Programs Exclude as income and as an asset educational income such as grants, loans, workstudy, scholarships, assistanceships, stipends and fellowships for education. BEM 500 p.12

In the present case, Claimant received payment from [REDACTED] through an [REDACTED] from September 2006 through September 2009. The last payment Claimant was received was on September 6, 2009. Claimant received \$27,508 on September 6, 2009. Claimant applied for Food Assistance in November 25, 2009. No income from the [REDACTED] was received in November 2009. At hearing, the Department explained that they pro rated Claimant's income from the [REDACTED] [REDACTED] over a 12 month period. This is not in accordance with Department policy, therefore the Department's determination of benefits is incorrect. This payment should have been treated as a lump sum payment in September 2009, the month it was received. BEM 500 Lump sums

are treated as assets in the month they are received. BEM 500. There is currently no asset limitation for FAP. No income from the [REDACTED] should have been included in the November 2009 budget because no income was received in that month. In addition, as Claimant argued at hearing, this income should have been excluded as income because it is educational income that should be characterized as a grant and a stipend. BEM 500 p.12.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly calculated the Claimant's FAP benefits, and it is ORDERED that the Department's decision in this regard be and is hereby REVERSED. Claimant's FAP benefits shall be rebudgeted going back to the date of application removing income from the [REDACTED], any increase in benefit shall be paid to Claimant in the form of a supplement. A new BRIDGE card shall be issued and Claimant's wife [REDACTED] shall be listed on the card.

/s/ Aaron McClintic

Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 11, 2010

Date Mailed: May 11, 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.

AM/hw

cc:

