

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: 2010-30943

Issue No: 3015

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 27, 2010

Lapeer County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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, an in-person hearing was held on May 27, 2010. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly determine claimant's Food Assistance Program (FAP) benefit eligibility?

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 was a Food Assistance Program benefit recipient.
- (2) Claimant's Food Assistance Program benefits were scheduled for re-determination April 1, 2010.
- (3) On April 1, 2010, the department processed the application and discovered that

claimant was receiving child support income that had not been previously budgeted and that the claimant's subsidized rent had changed.

(4) The department requested a date of the changes and claimant replied with a hearing request.

(5) On April 1, 2010, the department caseworker sent claimant notice that they needed additional information to make an assessment of claimant's eligibility for Food Assistance Program benefits.

(6) On April 12, 2010, claimant filed a request for a hearing to contest the department's negative action.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Categorically eligible groups automatically meet asset, gross and 100% net income limits for Food Assistance Program benefits. Categorical eligibility applies to groups, not individuals. Group composition must be determined prior to determining categorical eligibility. FAP groups are categorically eligible based on enhanced authorization for domestic violence prevention services. All other applicants/recipients are authorized for this service. Only households with gross income addable at 200% of the poverty level receive additional authorization. PEM, Item

213. In the instant case, claimant is categorically eligible for Food Assistance Program benefits based upon her receipt of RSDI income. PEM, Item 213. PEM, Item 550, p. 1., indicates that the department is to only use available countable income to determine eligibility. PEM, Item 500, defines countable income. PEM, Item 505, defines available income and income change processing. PEM, Item 550, describes income budgeting policy (PEM, Item 550, p. 1). The department is required to budget the entire amount of earned and unearned countable income. Gross countable earned income is reduced by 20% earned income deduction. Every case is allowed a standard deduction shown in PRT 255. The department is to always calculate income on a calendar month basis to determine eligibility and benefit months. The department is to use income from the months specified in this item for the benefit month being considered. PEM, Item 550.

In the instant case, the claimant receives \$ [REDACTED] per month in RSDI income. According to documents contained in the file (Exhibit 4), claimant was also receiving child support income. In addition, claimant's rental responsibility changed. Claimant testified on the record that her rent changed in May 2009 and she started receiving child support in September 2009, and notified the department in October 2009.

The department representative testified that claimant was only in contact with the department when she dropped off a June 18, 2009 SER application but never notified the changes in her rent responsibility or her receipt of child support income.

The DHS-1171 application for benefits indicates that all clients must notify the department within 10 days of any changes in income or responsibility which may change claimant's eligibility status. In the instant case, claimant admitted that her rent obligation changed in May 2009. Claimant also admitted that her child support began in September 2009

but she did not notify the department until October 2009. Claimant could not remember what days she notified the department of her change in income, however, it appears that it was not done within 10 days as required by the DHS-1171 application for benefits. The budget contained in the file indicates that the department did not count claimant's child support income for the months in question. In a budget summary the department determined that claimant had unearned income in the amount of \$ [REDACTED] per month and a standard deduction of \$ [REDACTED]. She was charged \$ [REDACTED] in housing costs and \$ [REDACTED] in the heat and utility standard, which left her with a monthly net income \$ [REDACTED] and Food Assistance Program benefits eligibility in the amount of \$ [REDACTED] per month for the months of April 1, 2010 through March 31, 2011. This was an error as it is clear that claimant was receiving child support for at least the months of February 2010, March 2010, and April 2010. The department has established by the necessary competent, material and substantial in the record that claimant's Food Assistance Program benefit eligibility was not correctly calculated. The department never calculated claimant's receipt of child support income. Nor did the department calculate claimant's change in housing costs.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has not established that it was acting in compliance with department policy when it determined that claimant was to receive \$ [REDACTED] per month in Food Assistance Program benefits. The department failed to count and take into consideration claimant's change in housing responsibility and failed to take into consideration claimant's receipt of child support income.

Accordingly, the department's decision is REVERSED. The department is ORDERED to conduct a redetermination of claimant's Food Assistance Program benefits from the date

claimant began receiving child support income and on the date claimant's had a change in her rent responsibility. Once the department has determined claimant's eligibility or lack thereof for Food Assistance Program benefits, the department shall notify claimant in writing of her eligibility or lack thereof.

/s/

Landis Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 04, 2010

Date Mailed: June 7, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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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