

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.: 2010-32541  
Issue No.: 3003  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date:  
May 24, 2010  
Wayne County DHS (19)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 conducted from Detroit, Michigan on May 24, 2010. Claimant appeared and testified; [REDACTED] also appeared and testified on Claimant's behalf. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly reduced Claimant's Food Assistance Program benefits beginning 1/2010.

FINDINGS OF FACT

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

1. As of 12/2009, Claimant was an ongoing Food Assistance Program (FAP) benefit recipient.

2. In 12/2009, Claimant received \$200 in FAP benefits.
3. In 12/2009, Claimant received \$1078 in RSDI income; Claimant had been receiving the income since approximately 7/2009.
4. On 12/15/09, DHS discovered that they were improperly excluding Claimant's RSDI income in calculating Claimant's FAP benefits.
5. After budgeting Claimant's RSDI income, Claimant's FAP benefits were reduced to \$16 for 1/2010.
6. Claimant reported to DHS that he voluntarily paid child support on his 2/19/09 Assistance Application.
7. DHS never attempted to verify Claimant's child support obligation.
8. Claimant submitted a hearing request on 1/17/10 regarding reduction of FAP benefits for 1/2010, specifically disputing the failure by DHS to consider Claimant's child support expense.

#### CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

Claimant's primary argument was that DHS reduced Claimant's 1/2010 FAP benefits because DHS began budgeting RSDI income which Claimant previously reported and should

have been budgeted since 7/2009, the month Claimant began receiving the income. Claimant's argument is unpersuasive.

If DHS discovers a mistake in how they calculate benefits, DHS must correct the mistake. Simply because Claimant previously profited from the mistake does not justify Claimant in continuing to profit from the mistake. DHS properly updated Claimant's income to reflect the RSDI income that Claimant received. DHS met the requirements of BAM 220 in implementing the FAP reduction. It is found that DHS properly updated Claimant's RSDI income for Claimant's 1/2010 FAP budget.

Claimant also claims DHS failed to consider his child support expenses in calculating his 1/2010 FAP benefits. Child support expenses are an allowable expense in calculating FAP benefits. BEM 554. DHS conceded that Claimant reported the expense and that DHS failed to request verification of the expense. The failure by DHS to request child support expense verifications violates the requirements of BEM 130. It is found that DHS improperly failed to attempt to verify Claimant's child support expense in calculating Claimant's 1/2010 and subsequent FAP benefits.

It should be noted that Claimant received the maximum amount of FAP benefits for a one-person group prior to 1/2010. Thus, there is no need for DHS to adjust Claimant's FAP benefits prior to 1/2010.

#### DECISION AND ORDER

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS failed to attempt to verify Claimant's child support obligation.

It is ordered that DHS request necessary verifications from Claimant to verify Claimant's court ordered obligation and payments since 1/2010 and to recalculate Claimant's 1/2010 and subsequent FAP benefits accordingly.



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Christian Gardocki  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 6/7/2010

Date Mailed: 6/7/2010

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 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.

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