

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: 2010-33826
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 17, 2010
Oakland County DHS (04)

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 the Claimant's request for hearing submitted on February 23, 2010. After due notice, a telephone hearing was conducted in Wayne County, Michigan on June 17, 2010. The Claimant was present and testified. Jeffrey Robinson, FIM and Veonna Mills, ES worker appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated Claimant's Food Assistance Program ("FAP") benefits?

FINDINGS OF FACT

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

1. Claimant is a FAP recipient, and at her redetermination, she reported that she began working as a waitress and also began receiving \$100 a week in alimony.
2. As a result of the change in income, the Claimant's FAP benefits were decreased.

3. Recently, beginning May 31, 2010, the claimant has not received alimony and will have to go to court to seek enforcement of her divorce judgment.
4. The Claimant was due to be paid alimony on [REDACTED] and did not receive same.
5. The claimant credibly testified, under oath, that the last alimony she received was on [REDACTED] and that she does not anticipate receiving alimony until she goes to court to enforce her judgment.
6. The Claimant's wages as a waitress have also gone down significantly because there is road construction directly in front the restaurant where she works.
7. The Claimant brought to the hearing check stubs verifying her reduced income for the period 5/1/10 through 6/1/10.
8. The Claimant acknowledged her responsibility to report any changes of income or alimony receipt to the Department in the future within 10 days of the change occurring.
9. At the hearing, the Department agreed to recalculate FAP benefits for the claimant without including the alimony income of \$100 a week and to use the Claimant's reduced income due to her employment for the period 5/1/10 through 6/1/10.
10. The Claimant agreed to provide the Department proof of wages received from her employment for the period in question.
11. After the reason for the Department's closure of the Claimant's Adult Medical Program (AMP) case, the claimant no longer wished to pursue this issue and was satisfied and understood the reason for the closure.

12. The Department further agreed to supplement the claimant's FAP benefits as appropriate to account for benefits she was otherwise entitled to receive for the period 5/1/10 through 6/1/10. As a result of this agreement, Claimant indicated that she no longer wished to proceed with a hearing.

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

Under Program Administrative Manual Item 600, clients have the right to contest any agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The agency provides an Administrative Hearing to review the decision and determine if it is appropriate. Agency policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when the agency receives a hearing request and continues through the day of the hearing.

In the present case, the Department has agreed to recalculate the Claimant's FAP budget to account for the removal of the Claimant's alimony payment of \$100 a week, which she is not currently receiving, and to use her reduced income for the period 5/1/10 to 6/1/10 when calculating the Claimant's FAP budget to determine her income. The Department also agreed to recalculate the budgets for this period. The Claimant agreed to provide the Department, after the hearing, the necessary verification of income for the period 5/1/10 through 6/1/10. The

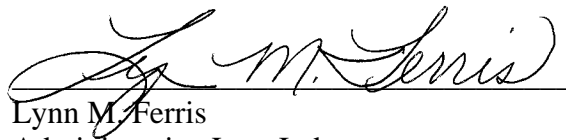
Department agreed to supplement the Claimant's FAP benefits, as appropriate, for benefits she was otherwise entitled to receive during the period 5/1/10 through 6/1/10. As a result of this agreement, Claimant indicated she no longer wished to proceed with the hearing. Since the Claimant and the Department have come to an agreement, it is unnecessary for this Administrative Law Judge to make a decision regarding the facts and issues in this case.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that the Department and Claimant have come to a settlement regarding claimant's request for a hearing.

Accordingly, it is ORDERED:

1. The Department shall review and recalculate Claimant's FAP benefits from 5/1/10 through 6/1/10 based upon the pay stubs she will provide the Department, which she brought to the hearing. The \$100 per week alimony shall not be included in the current budget.
2. The Department shall supplement the Claimant for any lost benefits she was otherwise entitled to receive for the period 5/1/10 through 6/1/10 as appropriate and in accordance with Policy.



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.

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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:

