

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.: 2010-36495
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 17, 2010
Wayne County DHS (43)

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 June 17, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly calculated Claimant's Food Assistance Program (FAP) benefits beginning 4/1/10.

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 an ongoing FAP recipient.
2. Claimant is a disabled person.
3. Claimant's FAP benefit period was scheduled to end 3/31/10.

4. DHS recertified Claimant's FAP benefits and calculated that Claimant was eligible for \$71/month beginning 4/1/10.
5. DHS calculated Claimant's redetermined FAP benefits without coding Claimant as disabled.
6. DHS calculated Claimant's redetermined FAP benefits without budgeting Claimant's medical expenses.
7. Claimant submitted a hearing request on 3/20/10 regarding the redetermined amount of his FAP benefits; Claimant also disputed a State Emergency Relief decision however DHS resolved the issue prior to the hearing.

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).

DHS recertified Claimant's FAP benefits for FAP benefit month 4/2010. As a result of the recertification, DHS reduced Claimant's FAP benefit amount to \$71/month. Claimant contends that he is entitled to a higher amount of FAP benefits.

The parties stipulated that Claimant's income was correctly budgeted as \$1020/month in Retirement, Survivor, Disability Insurance benefits. It was also agreed that DHS correctly

budgeted Claimant's housing expenses at \$356.03/month. DHS credited Claimant with the maximum \$555 heat utility standard.

The testimony indicated that Claimant is a disabled individual. Disabled persons may have medical expenses considered in calculation of their FAP benefits. BEM 556 at 3.

The testimony also indicated Claimant pays \$96.40/month for a Medicare Part B premium. The Medicare premium is a medical expense which should be factored into the calculation of FAP benefits. BEM 554 at 8. Claimant also credibly testified that he submitted verification of other medical expenses. DHS did not consider Claimant's Medicare premium or any other medical expenses in calculating Claimant's eligibility for 4/2010 FAP benefits. Exhibit 2. It is found that DHS improperly failed to consider Claimant's medical expenses in calculating Claimant's 4/2010 FAP benefit amount.

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 improperly calculated Claimant's 4/2010 FAP benefits by failing to budget Claimant's verified medical expenses. It is ordered that DHS calculate Claimant's FAP benefits beginning with FAP benefit month 4/2010 giving Claimant credit for paying a \$96.40 Medicare premium and any other medical expenses verified by Claimant.



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

Date Signed: 6/21/2010

Date Mailed: 6/21/2010

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.

CG/jlg

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