

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201043074
Issue No.: 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 9, 2010
Wayne County DHS (15)

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 the claimant's request for a hearing. After due notice, a telephone hearing was held on August 9, 2010. The 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 effective 8/2010.

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP recipient.
2. Claimant received \$526/month in FAP benefits in 7/2010.
3. DHS began budgeting \$482/month in "other unearned income" starting 8/2010.
4. DHS was unable to provide a basis for budgeting \$482/month in income beginning 8/2010.
5. As a result of the \$482/month in income, DHS reduced Claimant's FAP benefits effective 8/2010 to \$348/month.

6. Claimant requested a hearing on 7/8/10 disputing the FAP benefit reduction.

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 CML 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 Bridges Reference Manual (BRM).

Income means a benefit or payment received by an individual which is measured in money. BEM 500 at 3. Countable income is the income amount remaining after applying DHS policy. Countable income is the amount used to determine eligibility and benefit level. *Id.* Unearned income is all income that is not earned. *Id.*

In the present case, DHS calculated Claimant's 8/2010 FAP benefits by budgeting Claimant's child support income and \$482 in "other unearned income". As a result of the \$482 in Claimant's FAP benefit budget, Claimant's FAP benefits were reduced from \$526/month in 7/2010 to \$348 beginning 8/2010. Claimant testified that she only received child support income which DHS had separately budgeted.

DHS was asked what their basis was for budgeting \$482/month in unearned income; DHS was unable to explain why the income was budgeted. Without a basis to budget the \$482/month unearned income, DHS can not continue to issue FAP benefits to Claimant by counting the income. It is found that DHS incorrectly budgeted Claimant's FAP benefits beginning 8/2010 by improperly including \$482/month in unearned income

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 establish a basis for budgeting \$482/month in unearned income in calculation of Claimant's FAP benefits beginning 8/2010. It is ordered that DHS recalculate Claimant's FAP benefits beginning 8/2010 by removing the \$482 in unearned income from Claimant's budget.

201043074/CG

DHS shall supplement Claimant for any FAP benefits lost due to the error.

/s/



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

Date Signed: August 16, 2010

Date Mailed: August 16, 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/ hw

cc:

