

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: 2010-43385
Issue No: 1018; 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 11, 2010
Chippewa County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 claimant's request for a hearing. After due notice, a telephone hearing was held on August 11, 2010.

ISSUE

Did the DHS properly propose to reduce claimant's FIP and FAP cases on the grounds of increased income?

FINDINGS OF FACT

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

(1) Prior to the proposed negative action herein, claimant's FIP and FAP benefits were \$403 and \$367.

(2) Claimant's benefits identified in the previous Findings of Fact were based on claimant being on an FMLA status from work for the birth of her baby.

(3) In April, 2010 claimant turned in a semi-annual contact report including verifications which indicated that claimant had returned to work, previously unreported.

(4) On June 4, 2010, the DHS ran new budgets. FIP eligibility showed claimant qualified for the E-FIP in the amount of \$10 and FAP benefits reduced to the amount of \$143.

(5) The department counted claimant's gross income as verified by her paycheck prior to her deduction totals of \$1,462 per month for both programs. Claimant's net pay totals approximately \$50 after numerous deductions, including claimant's housing. (Exhibit #8.)

(6) On June 4, 2010, the DHS issued notice to claimant informing her of the reductions in her benefits for FIP and FAP.

(7) On June 16, 2010, claimant filed a timely hearing request. The department reinstated the action pending the outcome of the hearing. Claimant continues to receive full benefits.

(8) Claimant did not dispute the amounts and/or calculations in FIP and FAP budgets.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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).

Claimant primarily disputes in this case the department's counting of her gross and not her net income. Applicable policy to this issue is found primarily in BEM Item 500. On page 2, the department is required for both programs to count the gross income and not the net income. As noted in the findings of facts, claimant has numerous deductions taken out of her gross income, including her housing.

Other applicable policy and procedure can be found in the BEM 500 series and BAM 210 and 220.

In this case, claimant does not dispute the calculations and/or deductions used on the FIP and FAP budgets.

Under the above-cited authority, the department is required to count the gross and not the net income in calculating FIP and FAP eligibility. The purview of an Administrative Law Judge's is to review the department's actions and to make a determination if those actions are correct under policy and procedure. Under BEM 500, the department's actions were correct and must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department's proposed reductions in claimant's FIP and FAP cases was correct.

Accordingly, the department's proposed actions here in is hereby UPHELD.

/S/ _____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 12, 2010

Date Mailed: August 12, 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 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.

JGS/tg

cc:

