

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

IN THE MATTER OF:



Reg. No.: 201044169
Issue No.: 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 16, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 16, 2010. The Claimant appeared and testified. [REDACTED], ES appeared on behalf of the Department.

ISSUE

Was the Department correct in determining Claimant's FAP benefits?

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 recipient of FAP benefits.
- (2) In January 2010 the Department determined that Claimant's FAP benefits would be reduced from \$367 to \$27 effective February 1, 2010.
- (3) Claimant receives unemployment benefits of \$1666 per month.
- (4) Claimant has shelter expense of \$1600.
- (5) Claimant requested a hearing on March 26, 2010 contesting the determination of FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Program Reference Manual ("PRM").

The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. BEM 550. Under 7 CFR 273.9, as amended, \$132.00 is deducted from the gross income of FAP recipients in determining FAP grants.

In the present case, Claimant has \$1664 monthly gross unearned income from unemployment benefits. The monthly income of \$1664 was calculated by multiplying the biweekly benefit by 2.15. $774 \times 2.15 = 1664$. The standard deduction of \$132 was subtracted from \$1664 resulting in adjusted income of \$1532. Claimant has shelter expense of \$1045 plus utility allowance of \$555, and does qualify for the maximum excess shelter deduction of \$459. Subtracting \$459 from \$1532 results with \$1073. The Food Assistant Issuance Table shows \$45 in benefit for \$1073 net income for a household of 2. RFT 260. The amount determined by the Department was \$27 and it is incorrect. The Department did not submit budgets showing how they calculated Claimant's FAP benefit despite being asked to do so.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly determined the Claimant's FAP benefits. Accordingly, the Department's determination is REVERSED. The correct amount of FAP benefits for the Claimant is \$45. An \$18 per month supplement shall be paid to Claimant for February 2010 and going forward.

/s/  _____
Aaron McClintic
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

201044169/AM

Date Signed: August 26, 2010

Date Mailed: August 26, 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 of the rehearing decision.

AM/hw

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