

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-44208
Issue No.: 3003/1018
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 18, 2010
Wayne County DHS (41)

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 a hearing. After due notice, a telephone hearing was held on November 18, 2010. The claimant appeared and testified. [REDACTED] was present and interpreted. [REDACTED], FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") and whether the Department properly denied the Claimant's application of cash assistance ("FIP") 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. The Claimant is a FAP recipient and was denied FIP cash assistance due to excess income.
2. The Claimant lives with nine children and his spouse.
3. The Department properly determined that the Claimant had excess income when computing the Claimant's FIP cash budget to determine his eligibility.
4. The Department found the Claimant's income to be \$1093 in RSDI and included 5 of his kids in the FIP budget but not their income of \$66 per month in RSDI per child for a total \$330.

5. The Claimant agreed after it was explained to him that he would not be eligible for Cash Assistance based on excess income because the FIP income limit for a group of 6 (the Claimant and 5 of his kids who qualify to be included) is \$828. The Claimant's income alone exceeds the limit making him ineligible for Cash Assistance.
6. At the hearing, the Department agreed that it had incorrectly computed the Claimant's FAP benefits. The Department agreed to retroactively correct the Claimant's FAP budget retroactive to the application date of May 26, 2010. The Department agreed to include all nine of the Claimant's children in the group and to include \$66 per month RSDI income for 8 of the children when calculating the Claimant's FAP benefits. The Department further agreed to determine if the Claimant's spouse was eligible to be included as a FAP group member based on her husband's social Security credits as allowed by BEM 224, page 26 and if she was eligible to also include her in the group and include her income of \$66 per month RSDI. The Department agreed to issue a supplement to the Claimant for any FAP benefits he was otherwise entitled to receive retroactive to May 26, 2010.
7. It was explained to the Claimant that it could not be determined what the new FAP allotment would be based on the recalculated budget as it had not been calculated and his wife's status as a group member could not yet be confirmed by the Department at the hearing.
8. Based upon these agreements and understandings the Claimant indicated that he no longer wished to proceed further with the 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 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).

Under Bridges 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 this case, the Department agreed that the Claimant's original FAP budget was incorrect as it did not include all the Claimant's 9 children as group members and did not include the income of 8 of the Children who receive \$66 per month RSDI. Given these facts the Department agreed to recalculate the FAP budget to correct the errors retroactive to May 26, 2010 the date of the application. The Department further agreed to supplement the Claimant's FAP benefits retroactive to May 26, 2010 for any FAP benefits he was otherwise entitled to receive. The Department also agreed to seek a determination from Social Security to determine whether the Claimant's wife is also eligible to be included in the FAP group based on her husband's Social Security Credits and if eligible to include the Claimant's wife as a group member and also to include her RSDI income when computing the FAP budget.

With regard to the Claimant's FIP Cash Assistance eligibility, the Claimant agreed based upon the explanation given at the hearing that the denial of his Cash Assistance application was correct.

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.

DECISION AND ORDER

The Administrative Law Judge, based upon the above 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 agreed to recalculate the claimant's FAP budget to include all nine of the claimant's children as group members and to include the income of \$66 per month RSDI received by eight of the children in the amount of \$330.
2. The department also agreed to assist the claimant in determining whether his spouse was eligible to be included in the FAP group based upon the claimant's social security credits, and if eligible, to include the claimant spouse in the group as well as her income received from SDI of \$66 per month.

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3. The department agreed that upon recomputing the FAP budget it would issue a FAP supplement to the claimant for any benefits he was otherwise entitled to receive retroactive to May 26, 2010, the date of his application.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/29/2010

Date Mailed: 11/29/2010

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.

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