

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: 2010-4551

Issue No: 3002, 6019

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

January 12, 2010

Montcalm County DHS

ADMINISTRATIVE LAW JUDGE:

Steven M. Brown

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 [REDACTED] on January 12, 2010.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance Program (FAP) and Child Development and Care (CDC) eligibility?

FINDINGS OF FACT

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

- (1) Claimant is a FAP recipient.
- (2) On August 14, 2009, the Department mailed Claimant a Notice of Case Action informing her that her CDC case was closed from 06/21/09 – 07/18/09 due to

excess income and that her FAP allotment was reduced from [REDACTED] effective 09/01/09. (Exhibit 20)

(3) The Department completed a FAP budget which resulted in monthly FAP allotment of [REDACTED] effective 08/01/09. (Exhibits 17-19)

(4) The Department completed a FAP budget which resulted in a monthly FAP allotment of [REDACTED] effective 09/01/09. (Exhibits 14-16)

(5) On September 14, 2009, the Department received Claimant's hearing request.

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 (DHS or department), 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 Bridges Reference Manual (BRM).

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department

policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

For FAP purposes, all earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit.

Unearned income means ALL income that is not earned and includes FIP, RSDI, SSI and UB. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected.

Prospective budgeting is the best estimate of the client's future income. BEM 505

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15.

BEM 505

In the instant case, there are several differences between the August 2009 and September 2009 FAP budgets which, taken together, account for the reduction in FAP benefits. The main reason for the reduction was that the August 2009 budget was based only on [REDACTED] income versus [REDACTED] income for September 2009. [REDACTED] of [REDACTED] and a group size of 4 was the same in both budgets. The increase in Claimant's income was offset somewhat because the August 2009 budget contained no shelter expenses while the September 2009 budget included rent of [REDACTED] and a non-heat electric standard

deduction of [REDACTED]. It appears that the Department should have included a [REDACTED] heat and utility standard instead of the [REDACTED] non-heat electric standard given that Claimant pays her own electric heat. The Department did not offer any evidence to support its determination that Claimant's CDC case be closed from June 21, 2009 – July 18, 2009.

With the above said, based on the testimony and documentation offered at hearing, I do not find that the Department established that it acted in accordance with policy in computing Claimant's FAP and CDC eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department acted in accordance with policy in computing Claimant's FAP and CDC eligibility.

Accordingly, the Department's FAP and CDC eligibility determinations are REVERSED, it is SO ORDERED. The Department shall:

(1) Investigate and issue a new determination as to Claimant's eligibility for CDC benefits for the period of 06/21/09 – 07/18/09. Notify Claimant in writing of the Department's revised determination. If approved, the Department shall issue Claimant supplemental benefits she is entitled to, if any. If denied, the Department shall give specific reasons for the denial in the Notice of Case Action. Claimant retains the right to request a hearing if she would like to contest the Department's revised determination.

(2) Investigate and issue a new determination as to Claimant's eligibility for FAP benefits effective September 1, 2009. Notify Claimant in writing of the Department's revised determination. Issue Claimant supplemental benefits she is entitled

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to, if any. Claimant retains the right to request a hearing if she would like to contest the Department's revised determination.

/s/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 26, 2010

Date Mailed: January 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 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.

SMB/db

cc:

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