

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.: 2010-50889
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 22, 2010
Wayne County DHS (18)

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 September 22, 2010. The claimant appeared and testified. [REDACTED], FIM and [REDACTED] Talley, ES appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("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. The claimant applied for FAP benefits and her application was processed August 12, 2010.
2. The original FAP budget that the department computed was incorrect when it determined that claimant was entitled to receive \$80 in FAP benefits. Exhibit 2
3. The department utilized 30 days of gross income when computing the claimant's earned income and calculated the benefits to be \$16. Exhibit 1
4. The department incorrectly failed to include the correct child support amount of \$709 per month which the claimant confirmed at the hearing she was receiving. Exhibit 2

5. The department utilized two biweekly pay stubs to determine the earned income. The pay stubs the department used to compute the FAP budget was \$640.60 (July 16, 2010) and \$610.27 for the two week period ending July 30, 2010. The department did not utilize the pay stub for the period ending August 13, 2010 as the pay amount was higher than the claimant's normal pay.
6. The claimant confirmed at the hearing that her rent was \$700 and that she received a utility allowance in the amount of \$555.
7. The FAP budget submitted by the department after the hearing correctly computed the claimant's FAP benefits to be \$16. Exhibit 1
8. The department's prior budget improperly computed the claimant's FAP benefits to be \$80 dollars because it did not use the correct child support amount and thus the budget was incorrect as it computed the FAP benefits to be higher than they should have been.
9. The department properly computed the claimant's gross earned income to be \$1344. The department properly utilized the child support amount of \$709 for the unearned income amount which was also a correct. The department's calculation of the claimant's excess shelter deduction is also correct as it utilized housing expenses of \$700 and granted the claimant the maximum excess shelter deduction of \$459 which is also correct.
10. The claimant requested a hearing on August 17, 2010 protesting the calculation of her food assistance benefits. The department received claimant's hearing request on August 18, 2010.

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).

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. PEM/BEM 550. Under 7 CFR 273.9, as amended, \$141.00 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter are also made. PEM/BEM 554. Id. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

When calculating the benefit amount, according to PEM/BEM 556, the Shelter set offs are added together to equal A. The income after deductions is divided by two and equals B. $A-B=C$. The lesser of C or the maximum shelter amount set forth in RFT 255 will be deducted from the reduced income in determining the final net amount. The amount of food assistance allotment is established by regulations at 7 CFR 273.10 based on a group's net income.

In the present case, according to the aforementioned policy on budgeting, Claimant's shelter costs equal $\$700.00 + \$555.00 = \$1255.00$ (A). 50% of the income less deductions = $\$628.00$ (B). $(A-\$1255) - (B-\$628) = \$627.00$, but the maximum shelter amount is $\$459.00$. Claimant has a net monthly income of $\$1344.00$. This was obtained by adding the gross pay together and then dividing the sum by two to get the average amount and then multiplying the average by 2.15 as required by BEM 506 page 6 – 7. $(\$640.60 + \$610.27 = \$1251 \div 2 = \$625 \times 2.15 = \$1344)$.

To Determine the total income amount the earned income of $\$1344$ plus the child support of $\$709$ is added together to give the total gross income of $\$2053$. Subtracting the standard deduction of $\$141.00$ and the earned in come deduction (80% of $1344 = \$269$) and further subtracting the maximum excess shelter amount of $\$459.00$ from the gross income of $\$2053$ yields a net income of $\$1185$. A household of two people with a net monthly income of $\$1185.00$ is entitled to a monthly FAP grant of $\$16.00$ per month. RFT 260

In conclusion, the budget submitted during the hearing and marked Exhibit 1 is correct and the previous budget marked Exhibit 2 was incorrect for the reasons set forth in the finding of facts as it did not contain the correct child support amount received by the Claimant.

Based upon the foregoing facts and relevant law, it is found that the Department's determinations are reversed in part and affirmed in part.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly calculated the Claimant's FAP allotment to be $\$16$ per month and therefore its actions with regard to the calculation of the Claimant's

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FAP benefits are AFFIRMED. The Department's prior FAP benefit calculation finding the Claimant was entitled to FAP benefits of \$80 is REVERSED.

Accordingly, it is ORDERED:

1. The Department's FAP calculation which determined that the claimant is entitled to receive \$16 per month in FAP benefits is affirmed.
2. The prior FAP budget which calculated the Claimant's FAP benefits to be \$80 is reversed.



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

Date Signed: 9/24/2010

Date Mailed: 9/24/210

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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