

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.: 2010-50929
Issue No.: 3002/3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 23, 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 23, 2010. The claimant appeared and testified. [REDACTED], FIM and [REDACTED], 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 had a redetermination for her child day care benefits (CDC) and at the time both her income and child support payments she received were reviewed by the department. As a result of the review the claimant's FAP benefits were decreased when the department determined that the claimant received more income than it previously utilized in computing the claimant's FAP benefits.
2. A Notice of Case Action was sent to the Claimant on August 14, 2010 which determined the Claimant's FAP benefits should be reduced to \$30 a month.
3. The department and the claimant agreed that her earnings from her employment as calculated by the department were correct. The

department calculated the claimant's earned income to be \$2704 based upon pay stub information provided by the claimant. Exhibits 5 and 6

4. The department also calculated the claimant's child support payments received when computing the claimant's FAP budget. The department properly reviewed the prior three months of child support income for the claimant's three children. The department based its calculations on a child support search for each of the claimant's three children which indicated payment disbursement to the Claimant for child support. Exhibits 7 8 9 and 10
5. The claimant disputed the child support payment income as incorrect and submitted a transaction history from her credit union which documented child support payments direct deposited into her banking account. Claimant's Exhibit 1
6. The claimant's online banking account confirms the department's calculations for the month of May 2010 and June 2010. The total child support numbers match exactly. The totals for these months are correct.
7. The Child support received by the Claimant as calculated by the Department for July 2010 total \$527.04. Exhibits 7, 8, 9 and 10. The claimant's banking records show she received in total \$247.10. Claimant's Exhibit 1.
8. The department determined that the claimant's child support income as averaged according to policy was \$742 per month. The department's calculations with regard to the child support income were in accordance with department policy and were correct based upon the official records utilized. BEM 505.
9. The department's utilized 30 days of gross income when computing the claimant's earned income and the 3 month average child support figure of \$742 and properly calculated the Claimant's shelter allowance. The Department's calculation of the Claimant's FAP benefit entitlement to be \$30 is correct. Exhibit 1
10. The claimant confirmed at the hearing that her rent/mortgage was \$1006 which was the amount utilized by the Department in the FAP budget and the Claimant did receive a heat and a utility allowance in the amount of \$555 which was included in her Shelter Calculation. These computations are correct and in accordance with the Department policy.

11. The FAP budget submitted by the department correctly computed the claimant's FAP benefits to be \$30. Exhibit 1
12. 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.

In this case the Administrative Law Judge exhaustively reviewed the child support calculations used by the Department and must conclude that the amounts it utilized are correct. This conclusion is based upon the fact that the monthly totals used by the Department from official records match the amount deposited into the Claimant's bank account to the penny for the months of May and June 2010. The month which is different is July and while the Claimant indicated that she believed that her child support payments were going to change, she had not received any official notice from friend of the Court or a court order changing the child support payments.

In conclusion, the budget submitted during the hearing and marked Exhibit 1 is correct. If during the next several months an actual change in court ordered child support is made which decreases the Claimant's child support or the Claimant submits friend of the court records to the Department which demonstrate the actual benefits received are less than the amount of child support of \$742 included in the Claimant's FAP budget, the Claimant is be entitled to report the change and seek a recalculation of her benefits. In reviewing the records, it also appeared more likely that the discrepancy in numbers

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was due more to the fact that the dispersing agency, or friend of the court may have erred when transferring payments to the Claimant's account and her remedy may be to seek to resolve the discrepancy with that entity.

Based on the whole record it is determined that the Department properly followed and applied the Bridges' policy governing the computation of FAP benefits correctly and based its determination on reliable records it had available to it when computing the Claimant's FAP budget.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is correct and must be affirmed.

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 \$30 per month and therefore its actions with regard to the calculation of the Claimant's FAP benefits are AFFIRMED.



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

Date Signed: 9/27/2010

Date Mailed: 9/27/2010

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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