

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.: 2010-53316
Issue No.: 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 30, 2010
Wayne County DHS (55)

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 30, 2010. The claimant appeared and testified. [REDACTED], FIM, [REDACTED], FIS Jet Worker appeared on behalf of the department.

ISSUE

Whether the Department properly calculated the claimant's shelter expenses when it computed her FAP budget to exclude a \$400 amount for home repairs and improvements?

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's received a notice of case action reducing her FAP benefits due to a change made to her FAP shelter expenses and FAP budget. The claimant's FAP benefits were reduced when a monthly payment of \$400 for a home improvement loan charge was removed as a shelter expense.
2. The claimant authorized [REDACTED] to make the improvements to her home in the amount of \$41,651 which is the account balance. The claimant pays \$400 per month toward the balance. Based on a Statement of Account that was provided to the Department, the department excluded the \$400 monthly payment as not eligible to be included as part of her housing expenses. Exhibit 1

3. The Statement of Account does not recite the terms and conditions of the loan made by [REDACTED] to the Claimant. The document does not establish that the loan is a mortgage, second mortgage or home equity loan.
4. The claimant agreed to provide as part of the hearing record the documents she executed to [REDACTED] so that they might be reviewed to determine whether they are a mortgage expense or home-equity loan or some other type of loan.
5. The record was left open for one week (October 10, 2010) after the hearing so the information could be provided to the Administrative Law Judge.
6. The Claimant did not submit any further information or documents after the hearing.
7. The budget calculated by the department based on the information it had available originally included both the claimant's mortgage in the amount of \$381.76 and the \$400 payment made monthly to [REDACTED] when calculating the claimant's housing expense.
8. A subsequent recalculation of the budget which removed the \$400 amount caused the reduction of the claimant's FAP benefits when the housing expense was reduced.
9. The Department concluded, based upon the [REDACTED] statement of account, that the expense was not allowable as a mortgage or home equity loan. Exhibit 1
10. The claimant requested a hearing on June 18, 2010 which was received by the department on June 25, 2010. The claimant's hearing request protested the decrease in her Food Assistance allotment.

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 DHS processed a the FAP budget for the claimant when initially computing her benefits and included both her first mortgage payment and the home improvement loan payment in the amount of \$400.00. Subsequently, upon review of the FAP budget the department determined that it did not possess adequate verification with regard to whether the second payment for the home improvements was a mortgage or otherwise considered a legitimate housing expense which should be included in the claimant's FAP budget. Based on its review the department deleted the expense as a housing expense from the shelter budget calculations. The Claimant's FAP benefits were reduced accordingly.

The provisions which must be followed to determine whether an expense is a housing expense are found in BEM 554 which provides:

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group.

The expense must be a continuing one. Payments that exceed the normal monthly obligation are **not** deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, **and** it has **not** been allowed in a previous FAP budget. Additional expenses for optional charges, such as carports, pets, etc. are **not** allowed.

Some finance companies or banks may combine billings for allowable shelter expenses with other loans. Be careful to only allow the portion that is an allowable shelter expense. Home equity loans are allowable, see Determining the Monthly Amount, [Home Equity Loan Expense](#) in this item. BEM 554, page 10.

After careful review of the document originally submitted by the claimant at the hearing it cannot be determined whether that the payment the claimant makes for the home improvements is a mortgage or other allowable type of loan and thus the \$400 monthly expense cannot be included in the claimant's housing expenses when calculating the FAP budget. The Department correctly excluded the monthly payment under BEM 554.

Based upon the foregoing the department properly included the \$381.76 mortgage expense when calculating the claimant's FAP budget. The Department's exclusion of the \$400 monthly payment to [REDACTED] was also correct. Therefore it is determined that the FAP budget as recalculated is correct.

Based upon the foregoing analysis it is found that the Department did properly calculate the Claimant's FAP budget housing expenses and therefore its actions in that regard must be AFFIRMED.

The claimant is encouraged to continue to seek clarification from [REDACTED] regarding the nature of the home improvement loan in the amount of \$400 which she pays every month and to submit the documents she signed to the Department for further review and consideration. This decision is based only on the one page document the Claimant submitted entitled Statement.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS did properly calculate the claimant's FAP budget when it removed the \$400 per month home-improvement expense from the claimant's housing expense and therefore, the Department's determination of the Claimant's housing expense is correct and is AFFIRMED.



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

Date Signed: 10/18/2010

Date Mailed: 10/18/2010

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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