

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.: 2010-55556
Issue No.: 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 20, 2010
Wayne County DHS (17)

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 October 20, 2010. The claimant appeared and testified. [REDACTED], ES and [REDACTED], FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated Claimant's Food Assistance Program ("FAP") benefits with regard to child support and whether she was properly disqualified from receiving FAP benefits for not working while attending school?

FINDINGS OF FACT

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

1. Claimant is a FAP recipient and her FAP benefits were reduced after a redetermination in July 2010.
2. At the time of the redetermination, July 2010, the claimant was attending school, working 20 hours a week, and receiving child support in the amount of \$298 per month. The claimant had earned income of \$575 per month.
3. In September 2010 the claimant's child support was reduced to \$19.58 and then ended.

4. As of October 2010, claimant no longer is receiving child support for her 20-year-old child. The claimant does not receive child support for her other child because the father is not paying child support.
5. The claimant's mortgage is \$1206.22 per month and the claimant is entitled to receive a heating deduction in the amount of \$588.
6. The claimant is currently working 20 hours a week, attending school and is receiving earned income of \$575 per month.
7. The department recalculated the FAP benefits in July 2010 and did not include any child support received and determined that the claimant was an ineligible student because she was not working.
8. The Claimant's request for a hearing was received by the Department on August 25, 2010 contesting the reduction of her food assistance.
9. The Department agreed, based upon the documents the claimant produced at the hearing with regard to the amount of her child support and earned income, as well as a completed document by her current employer, her father, to recalculate the Claimant's FAP budgets for the four month period beginning July 2010 through the month of October 2010.
10. The Department agreed to include child support as set forth in this Finding of Fact, (Paragraphs 2, 3 and 4) and earned income in the amount of \$575 per month beginning July 1, 2010. The Department further agreed to calculate a budget covering July, August, and September 2010, and a budget for October 2010, which will not include child support, as none is received, and will include the claimant's earned income as well as the appropriate housing expenses and shelter expenses.
11. The Department further agreed to supplement the claimant retroactively for any FAP benefits, if any, she was otherwise entitled to receive retroactive to July 1, 2010.
12. As a result of these agreements, Claimant indicated that she no longer wished to proceed with a 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 Program 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 the present case the department has agreed to recalculate the Claimant's FAP budgets retroactive to July 1, 2010 when the Claimant's FAP benefits were reduced. The department agreed to re calculate the FAP budgets, one which covers the period during which the claimant received earned income and child support, and one for October 2010 where the claimant receives earned income but does not receive child support.

The Department agreed to supplement the Claimant's FAP benefits, if required, retroactive to July 1, 2010 for FAP benefits she was otherwise entitled to receive and to properly calculate the Claimant's earned income and child support income correctly when recalculating the Claimant's FAP budgets.

The department shall also include the correct child support amounts and earned income as set forth in this decision and Findings of Fact, (Paragraphs 2, 3 and 4). Once the FAP budgets are recalculated, the department agrees that it will supplement the claimant for any FAP benefits she was otherwise entitled to receive based upon in recomputed budgets. As a result of this agreement, Claimant indicated she no longer wished to proceed with the hearing. 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 in this case.

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 shall review and recalculate Claimant's FAP budgets and benefits, and process new FAP budgets beginning July 1, 2010 through October 2010, which are consistent with this Decision's Findings of Facts.
2. The FAP budgets, as recalculated, shall include the correct amount of earned income, and child support payments received as set forth in this Decision's Findings of Facts, paragraphs 2, 3 and 4.
3. The Department shall supplement the Claimant for any FAP benefits, if any, she was otherwise entitled to receive retroactive to July 1, 2010.



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

Date Signed: 10/21/2010

Date Mailed: 10/21/2010

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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