

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.: 2010-665
Issue No.: 3002/6019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
November 18, 2009
Wayne County DHS (19)

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400. 9; MCL 400.37 upon claimant's request for a hearing. After due notice a telephone hearing was held on November 18, 2009 claimant was present and testified, [REDACTED] FIM and [REDACTED] appeared for the department and testified.

ISSUE

Did the Department properly determine claimant's FAP benefits and properly close claimant's Child Day Care benefits?

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 was an ongoing FAP and CDC recipient.
- (2) On September 16, 2009 pursuant to redetermination meeting claimant's FAP benefit was reduced from \$359 to \$72 per month effective October 1, 2009 and she was found to be ineligible for CDC benefits.

- (3) Claimant has employment income of \$1906 from her job with [REDACTED] [REDACTED]
[REDACTED]
- (4) Claimant receives child support in the amount of \$1603 per month.
- (5) Claimant requested a hearing on September 21, 2009 regarding the reduction of FAP benefits and closure of CDC benefits.

CONCLUSIONS OF LAW

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

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 (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM). The gross income limit for Child Day Care benefit is for a group size of 4 is \$2367. RFT 270

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 550. Under 7 CFR 273.9, as amended, \$135.00 is deducted from the gross income of FAP recipients in determining FAP grants.

PEM 505. Under 7 CFR 273.9, as amended, \$135 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter expenses are also made when shelter expenses in excess of 50 percent of the household's income after other specified deductions have been allowed. A standard deduction for telephone services may also be allowed. PEM 554.

In the present case, claimant argued at hearing that the amount of child support that she receives is less than the amount the Department used to determine her eligibility and benefits. Claimant submitted check stubs for one the child support payees, that she receives child support from, to support her position. The Department presented records from consolidated inquiry to support their calculation of the amount of child support claimant receives. These records showed payments in the month of October 2009 for ██████████ in the amount of \$361, for ██████████ ██████████ in the amount of \$248, for ██████████ in the amount of \$497, and for ██████████ ██████████ in the amount of \$497. This administrative law judge finds that the Department has shown sufficient proof that their calculation for the amount of child support received by the claimant complies with Department policy and is accurate. BEM 505

In the present case, according to the aforementioned policy on budgeting, claimant has a net monthly income of \$2840. This was obtained by subtracting the standard deduction of \$196 from the gross income of \$3127. Claimant qualified for an excess shelter deduction of \$91 as

her shelter expenses of \$1425 (\$875 rent plus \$550 utility) was in excess of \$1334(50 percent of \$3127, income after prior deductions were made.) by \$91. The amount of a monthly food assistance allotment is established by regulation 7 CFR 273.10. A household of 6 people with a net monthly income of \$2840 is entitled to a monthly FAP grant of \$100 per month. RFT 260. Therefore the Department's determination of \$72 in benefit is incorrect.

For the purposes of Child Day Care benefit claimant has a group size of 4. The gross income limit for Child Day Care benefit is for a group size of 4 is \$2367. RFT 270 Claimant has gross income of \$3509. The department was correct to close claimant's CDC benefit because of excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the department was incorrect in the determination of FAP benefits, and it is ORDERED that the Department's decision in this regard be and is hereby REVERSED. The Department shall re-budget and provide the increased benefits retroactive to October 1, 2009. This will require the department to pay a supplement of \$28 per month. This Administrative Law Judge further decides that the department was correct in the closure of CDC benefits, and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.



Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/09/09

Date Mailed: 12/09/09

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 date of the rehearing decision.

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