

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: 2010757
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 2, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on November 2, 2009.

ISSUE

Was the claimant's FAP allotment computed and allocated correctly?

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 was receiving a Food Assistance Program (FAP) allotment budget in Wayne County.
- (2) In May, 2009, claimant was awarded FAP benefits in the amount of \$19.

- (3) Claimant's FAP budget was re-run upon an indication of a benefit mismatch in the new BRIDGES system and it was determined that claimant should be receiving FAP benefits in the amount of \$28.
- (4) Claimant filed for hearing on August 18, 2009, alleging that DHS incorrectly computed her budget and did not include several expenses in the budget determination.

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 (DHS or department) administers the FAP program pursuant to MCL 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).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM, Item 500. A standard deduction from income of \$135 is allowed for each household. Certain non-reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$300 for non-senior/disabled/veteran households. BEM, Items 500 and 554; RFT 255; 7 CFR 273.2. Only heat, electricity, sewer, trash and telephone are allowed deductions. BEM 554. Any other expenses are considered non-

critical, and thus, not allowed to be deducted from gross income. Furthermore, RFT 255 states exactly how much is allowed to be claimed for each deduction. Policy states that \$33 is to be deducted for telephone expenses, and \$93 is to be deducted for electricity expenses, regardless of the actual bill. \$550 dollars may be deducted if the claimant has heating costs.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the Department properly computed the claimant's gross income. The gross unearned income benefit amount must be counted as unearned income, which is \$708 in the current case, after counting the total member group's RSDI and SSI benefits. BEM 500. These amounts were verified by the claimant during the course of the hearing. The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. The Administrative Law Judge computed claimant as having a net income of 601 dollars. The Department, in compliance with the federal regulations, has prepared issuance tables which are set forth at Bridges Reference Manual, Table 260. The issuance table provides that a household with household size and net income of the claimant is eligible for an FAP allotment of \$28. The Administrative Law Judge has reviewed the budget and found no errors. Claimant was unable to point out specifically what parts of the budget she felt were in error.

However, the Department's initial budget erroneously calculated claimant's unearned income amount to be \$736; this was corrected upon implementation of the BRIDGES program. Unfortunately, this means that claimant was receiving an incorrect FAP allocation for several months until the BRIDGES program was implemented. The Department must supplement the claimant's benefits to the correct amount of \$28 for the months that claimant was receiving an incorrect amount of \$19.

Finally, claimant argued at hearing that she had expenses that should have been taken into account when calculating her budget, including storage fees, a bank loan and bus fees. The undersigned, after reviewing the policies in contained in BEM 554, FAP Allowable Expenses and Expense Budgeting, finds that the policies contain no support for this argument. Only certain expenses may be budgeted, and the policy does not allow for including these types of fees as expenses.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to award claimant an FAP allotment of \$28 was correct.

Accordingly, the Department's decision is AFFIRMED.

The Department is ORDERED to review claimant's benefit awards retroactively to the benefit month of June, 2009 and supplement claimant any benefits, up to the correct \$28 dollar amount, that were erroneously not awarded.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/22/09

Date Mailed: 01/06/09

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.

2010-757/RJC

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.

RJC/dj

cc:

