

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: 2010-14393

Issue No: 3020

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 4, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 February 4, 2010. The Claimant appeared and testified.

[REDACTED] FIM and [REDACTED] ES appeared on behalf of the Department.

ISSUE

Was the Department correct in determining Claimant's 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) Claimant was a Food Assistance benefit recipient,
- (2) Claimant had \$2996 earned income during the month used to calculate benefits.

- (3) Pursuant to a redetermination, the Department determined that claimant was entitled to \$125 per month in FAP benefits beginning December 1, 2009.
- (4) The Department did not include a shelter deduction for the Claimant when calculating benefits.
- (5) Claimant requested a hearing on December 11, 2009 contesting the amount of Food Assistance 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”).

Wages are the pay an employee receives from another individual or organization. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. BEM 501 p.5

Claimant argued at hearing that a significant portion of the income in the month used to calculate her benefit was from an incentive program that is irregular. However, Department policy is clear that bonuses are wages to be included when determining benefits. BEM 501

In the present case, the Department acknowledged that shelter deduction was not included in the budget when benefits were calculated and that was in error. The Department agreed to rebudget taking into account any shelter deduction.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly calculated the Claimant's FAP benefits, and it is ORDERED that the Department's decision in this regard be and is hereby REVERSED. FAP benefits shall be rebudgeted with a shelter deduction included in the calculation of benefits, any increase in benefit due the Claimant shall be paid by a supplement.

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

Date Signed: March 25, 2010

Date Mailed: March 25, 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 date of the rehearing decision.

AM/ctl

Cc:

