

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: 2010-14728
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 17, 2010
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 February 17, 2010.

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 in the amount of \$367.
- (2) Claimant's FAP budget was recalculated in December, 2009.
- (3) Claimant's FAP budget in December was calculated using a single paycheck amount without deducting for shelter expenses.

- (4) This resulted in a FAP budget of \$29.
- (5) The budget was recalculated for January, and claimant's budget was calculated at \$164.
- (6) Claimant filed for hearing on December 10, 2009, alleging that DHS incorrectly computed her budget.
- (7) After the hearing, the record was left open for 10 days to give time to submit actual pay records from December and for the Department to submit the actual budget they used in calculating the December amount.
- (8) These documents were not returned to the Administrative Law Judge.

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 500. A standard deduction from income of \$132 is allowed for households of claimant's size. 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 \$459 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 shelter expense. Policy states that \$34 allowed to be claimed for telephone expenses, and \$102 is allowed to be claimed for non-heat electricity expenses, regardless of the actual bill. \$555 dollars may be claimed if the claimant has heating costs. \$57 may be claimed for water or sewer expenses.

In the current case, the Administrative Law Judge is unable to determine whether the Department computed the claimant's FAP budget correctly. While it appears that the employment income used for the December budget was correct, based upon July paychecks, the claimant's shelter expenses would have to have been ignored to arrive at the \$29 allotment the Department determined. The shelter expenses were used to determine the January budget. However, this is speculation on the part of the undersigned. Without submitted budgets, the undersigned is unable to determine what happened, much less whether income was budgeted correct.

As such, the undersigned sees no other option but to send the budget back to the Department and have them start again from scratch. As the claimant has income from December, claimant should submit income verification from that month.

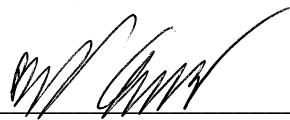
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's budget was incorrect.

Accordingly, the Department's decision is REVERSED.

The Department is ORDERED to request income verifications from the claimant and re-run claimant's FAP allotment budget for the months of December, 2009 forward, and issue any supplemental benefits to which the claimant may be entitled in accordance with policies found in the Bridges Administrative and Eligibility Manuals.

Claimant is ORDERED to supply the Department with income verification for the month of December 2009 upon request, in a timely manner, as is consistent with verification policy found in BAM 130.



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

Date Signed: 04/29/10

Date Mailed: 04/29/10

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.

RJC/dj

cc:

