

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.: 2010-15134

Issue No.: 3003

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

February 17, 2010

Macomb County DHS

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 February 17, 2010. The Claimant appeared and testified along with his AHR [REDACTED], [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Is the Department correct in determining Claimant's FAP benefit?

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 an ongoing FAP recipient receiving \$200 per month.
- (2) The Department determined Claimant's FAP benefit to be \$16 for the month of December 2009.
- (3) Claimant has unearned income of \$1052 per month consisting of RSDI benefits.
- (4) Claimant has \$363 per month garnished from his RSDI for child support.

- (5) Claimant requested a hearing on December 3, 2009 contesting the determination of his FAP 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”). PEM 554 states The following child support expenses are allowed: The amount of court-ordered child support and arrearages paid by the household members to non-household members in the benefit month. Never allow more than the household’s legal obligation. The child support expense must be paid to be allowed. PEM 554

In the present case, the Department incorrectly determined that child support expenses that Claimant pays are not to be considered when calculating his FAP benefit. Claimant has \$363 per month garnished directly from his RSDI benefit. PEM 554 clearly states that child support expenses are allowed when calculating FAP benefits. Therefore the Department’s calculation of FAP benefits was incorrect.

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.

Claimant's benefits shall be re-budgeted back to the date of the reduction in benefit December 1, 2009 to allow for child support expenses that he pays. Any increased benefits shall be paid to the Claimant in the form of a supplement.



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

Date Signed: March 24, 2010

Date Mailed: March 24, 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/hw

cc:

