

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.: 2010-17238
Issue No.: 2001/3022
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 10, 2010
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 telephone hearing was conducted from Detroit, Michigan on June 10, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly reduced Claimant's Food Assistance Program (FAP) benefits and terminated Adult Medical Program (AMP) benefits due to employment income.

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 and AMP recipient.
2. Claimant was employed but DHS was not budgeting Claimant's employment income in calculation of Claimant's benefits.

3. Claimant receives \$1472/month in gross employment income.
4. When DHS corrected the error for Claimant's 2/1/10 certification period, Claimant's FAP benefits were reduced to \$16/month beginning 2/2010; Claimant's AMP benefits were terminated beginning 2/2010.
5. Claimant submitted a hearing request on 1/21/10 regarding reduction of FAP benefits and termination of AMP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). AMP is an MA program.

DHS must periodically redetermine an individual's eligibility for benefit programs. BAM 210 at 1. The redetermination process includes submitting redetermination documents and verifying necessary information. *Id* at 4.

In the present case, Claimant's benefits were due for redetermination beginning 2/1/10. When the specialist was processing the redetermination for Claimant's FAP and AMP benefits, the specialist discovered that DHS was not budgeting Claimant's employment income. The failure to budget the employment income was solely due to error by DHS, however, clients may not continue to receive benefits to which they are not entitled simply because they previously received them.

Claimant's gross employment income was calculated to be \$1472/month; this amount was not disputed. AMP policy requires that Claimant receive a \$200 and 20% deduction toward their employment income. BEM 640 at 2. Claimant's AMP net income was calculated to be \$1018. The AMP net income limit is \$316. Claimant's net income exceeded the AMP net income limits. It is found that DHS properly terminated Claimant's AMP benefits.

DHS reduced Claimant's FAP benefits to \$16 beginning 2/2010. The only dispute in Claimant's budget had to do with the utility credit Claimant should receive. DHS credited Claimant with paying an electric and telephone expense. DHS did not give Claimant the full heat utility standard expense.

Claimant credibly testified that he is responsible for the electric expense involved with a room air conditioner. FAP groups who pay for cooling (including room air conditioners) are eligible for the full heating standard credit if they verify they have the responsibility to pay for non-heat electric. BEM 554 at 12. It was not disputed that Claimant verified his non-heat electrical obligation. It is found that DHS incorrectly calculated Claimant's 2/2010 FAP benefits by failing to give Claimant the full heat/utility standard credit.

DECISION AND ORDER

The actions taken by DHS are AFFIRMED in part. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's AMP benefits due to excess income.

The actions taken by DHS are REVERSED in part. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly calculated Claimant's utility standard for 2/2010. It is ordered that DHS recalculate Claimant's FAP benefits beginning 2/2010 by giving Claimant credit for the \$555 heat standard and issue any supplement owed to Claimant.



Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 6/15/2010

Date Mailed: 6/15/2010

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.

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