

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.: 2010-18020

Issue No.: 3003

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

March 15, 2010

Wayne County DHS (43)

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 the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on March 15, 2010. The Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly calculated Claimant's child support income for Claimant's Food Assistance Program (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 is an ongoing FAP recipient.
2. DHS began budgeting Unemployment Compensation (UC) benefits thereby reducing Claimant's FAP benefits.

3. DHS has also budgeted \$308/month in child support income for Claimant's FAP since at least 10/2009.
4. DHS failed to verify Claimant's child support income from 10/2009 and 11/2009 and incorrectly budgeted Claimant's 12/2009 child support income
5. Claimant submitted a hearing request on 1/22/10 regarding reduction of her 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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

The Hearing Summary by DHS framed the issue as to whether DHS is budgeting Claimant's UC benefits correctly. Supporting documentation from the DHS database indicates that the UC income is budgeted correctly.

During the hearing, Claimant disputed the amount of child support income that was budgeted in her FAP benefits. The DHS representative convincingly testified that based on information from the DHS child support database, Claimant received \$308/month in child support. Claimant testified she received less but lacked any documents to verify this.

Verification of Claimant's child support income from 10/2009-12/2009 was requested for submission following the hearing. The undersigned erred by not requiring DHS to provide this information during the hearing.

DHS submitted verification from 12/2009-3/2009 and failed to verify Claimant's support income from 10/2009 and 11/2009. The verification from 12/2009-3/2010 verified that Claimant received zero child support income for that time period. It is found that DHS incorrectly budget Claimant's FAP benefits for at least 12/2009 and beyond.

DECISION AND ORDER

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly calculated Claimant's FAP benefits. It is ordered that DHS shall recalculate Claimant's FAP benefits with the following guidelines:

1. for 10/2009 and 11/2009, DHS is to budget child support income as verified by their child support payment database; DHS is to follow BEM 505 in determining whether to calculate any support payments found within those months;
2. DHS is to mail Claimant a copy of Claimant's 10/2009-3/2010 child support income verification from the child support database
3. For 12/2009 through 3/2009, DHS is to recalculate Claimant's FAP benefits by budgeting zero child support income, as verified by the child support database.



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

Date Signed: 4/1/2010

Date Mailed: 4/1/2010

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.

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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.

CG/jlg

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