

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: 201018024
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 15, 2010
Macomb 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 March 15, 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 \$90.
- (2) Claimant's FAP budget was recalculated in July, 2009.
- (3) Claimant's FAP budget was closed due to excess income.

- (4) Claimant was notified of the action on July 22, 2009, with an effective date of action of August 4, 2009.
- (5) Claimant notified the Department on July 27, 2009, that her most recent pay stubs still left her eligible for FAP benefits.
- (6) Claimant filed for hearing on August 24, 2009, alleging that DHS incorrectly computed her budget.

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 that the Department computed the claimant's FAP budget correctly. While it appears that the unemployment income used for the budget was correct, upon receiving a notice of case action, claimant attempted to submit paycheck stubs for the current month, before the date of negative action, that showed her income had decreased. It is not clear that these paystubs were ever accepted, and based upon rudimentary calculations, show that the claimant may have been eligible for a FAP grant if the new income was used.

Therefore, the Administrative Law Judge holds that the Department erred when it did not use the new paychecks in its FAP budget with regard to the claimant's benefits.

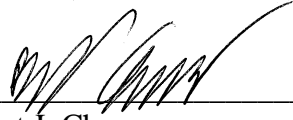
DECISION AND ORDER

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 for the month in question and re-run claimant's FAP allotment budget for the months of July, 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 July, 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: 06/15/10

Date Mailed: 06/18/10

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:

