

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.: 2010-19384
Issue No.: 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 22, 2010
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 on March 22, 2010. Claimant appeared and testified. Terry Wingo appeared on behalf of the department.

ISSUE

Whether the Department of Human Services (DHS) properly calculated Claimant's Food Assistance Program ("FAP") benefits beginning with benefit month .

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant filed a new application for FAP benefits on January 5, 2010 and is a current FAP recipient.

2. The Claimant's application indicated that he paid child support of \$26.50 per month per child. Exhibit 2
3. Claimant had a FAP certification period beginning 2/01/10 through 1/31/11
4. Claimant has a FAP benefit group of one.
5. Claimant is part of a non-senior, non-disabled and non-disabled veteran group.
6. Claimant receives weekly unemployment benefits in the amount of \$142.
7. The Claimant paid child support arrears in the amount of \$1,600 in the month of March for his two children. He paid \$800 per child. Claimant's Exhibit 1 and 2
8. The claimant pays regular child support of \$50 per month per child. Claimant's Exhibits 2 and 3.
9. Claimant's rent was \$70 for the month of January, \$70 for the month of February 2010 , and \$105 for the month of March 2010. Claimant's Exhibit 5
10. Claimant is homeless and lives currently at the [REDACTED]
11. Claimant pays no utilities or heat.
12. DHS calculated Claimant's monthly FAP benefit amount to be \$24 per month beginning 2/1/10. Exhibit 4
13. The Department recalculated the Claimant's FAP budget for March 1, 2010 and the claimant began receiving \$151.00 per month in benefits. Exhibit 5
14. Claimant filed a Hearing Request on 1/28/10 objecting to the amount of his 12/2009 FAP benefits.
15. The Administrative Law Judge left the record open until March 25, 2010 for the submission of additional information by the claimant.

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 Table Manuals (“RFT”).

DHS processed a FAP budget for Claimant beginning January 2010 pursuant to the Claimant’s new application for benefits. Claimant disputed the FAP budget in that it does not include any child support payments made by the Claimant or a shelter allowance. This information was not used by DHS in calculating the FAP budgets of January or March. Claimant is disputing the calculated FAP benefit amounts. BAM 556 directs how FAP benefits are calculated.

Claimant has weekly unemployment benefits of \$142. The total monthly income amount is determined by multiplying the weekly amount of \$142 by 4.3 to convert the income into a full month resulting in a monthly gross income of \$610. This gross income amount was used by the department in calculating the January and March 2010 budgets.

BEM 556 also requires a standard deduction based on Claimant’s FAP group size (1 person) of \$132. Subtracting the standard deduction from \$610 creates an adjusted gross income of \$478. This was the adjusted gross income as determined by the Department.

Neither the January nor the March budgets, as calculated by the department, contain any child support expense deduction or shelter expense, and it clearly should have included the

information provided by the Claimant in the January 2010 Application. Exhibit 4 pages 2 and 4. The claimant pays child support by court order in the amount of \$50.00 per month per child. Claimant Exhibits 3 and 4. The last three months child support payments as shown on Claimant's Exhibit 2 and 3 must be averaged and deducted as an expense per BEM 505. The claimant paid \$39.00 per month (averaged amount $\$50 + 51.11 + \16.67) for child support case docket number 1988867206. Claimant's Exhibit 3

The Claimant paid \$42.00 per month (averaged amount of $\$32.33 + \$47.20 + \$47.35$) for child support case docket number 19855563898. Claimant's Exhibit 4

Additionally, the Claimant paid, during the month of March, a child support arrearage for each child in the amount of \$800 for a total of \$1600. Exhibits 1 and 2

Claimant's housing expense was \$70.25 for January, \$70.00 for February and \$105 for March. When averaged, the Claimant's shelter cost is \$81.00 per month. The Claimant pays for no utilities or heat. In that regard, the Claimant also stated in his January 2010 application that he pays telephone expense which the Department should consider when calculating the Shelter expenses. See January 2010 application. Exhibit 3

Given the fact that the department did not use any of the child support information when calculating the FAP budget or the shelter expense, the Department is required to recalculate the budgets and utilize both the child support expenses and shelter expense when recalculating the budget.

Based upon the findings of fact and applicable law, it is found that the Department must recalculate the budgets for the period February 1, 2010 through the date of the hearing, as the budgets were incorrect and the available information provided in the claimant's application was not included. The recalculated budget shall include shelter expense, telephone and child support

payments made by Claimant and as outlined above. The Department is also required to supplement the Claimant's FAP benefits for benefits, if any, the Claimant was otherwise entitled to receive retroactive to February 1, 2010.

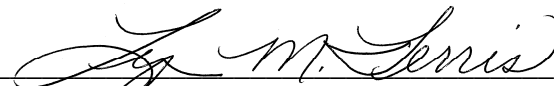
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly calculated Claimant's FAP beginning February 1, 2010, and therefore, its determination of the FAP benefits is hereby REVERSED.

Accordingly it is ORDERED:

The Department shall recalculate the Claimant's FAP benefits retroactive to February 1, 2010 to include shelter expenses and child support expenses in the amounts set forth above in the Conclusions of Law.

The Department shall also supplement the Claimant's FAP benefits for all benefits he was otherwise entitled to receive.



Lynn Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/13/10

Date Mailed: 04/16/10

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.

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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.

LMF/dj

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