

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.: 2010-23803

Issue No.: 3003

Case No.:

Load No.:

Hearing Date:

March 31, 2010

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

DECISION AND ORDER

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 held on March 31, 2010. The Claimant appeared and testified. [REDACTED], FIM and [REDACTED] ES appeared on behalf of the Department.

ISSUE

Was the Department correct in determining Claimant's 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 was an ongoing recipient of FAP benefits.
- (2) On January 29, 2010 the Department determined that Claimant's FAP benefit would be reduced to \$16 per month.
- (3) Claimant receives unemployment compensation of \$1556 per month.

- (4) Claimant has child support obligation of \$632 per month.
- (5) In determining Claimant's FAP benefit the Department gave Claimant \$318 child support deduction.
- (6) Claimant requested a hearing on February 5, 2010 contesting the determination of 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 Program Reference Manual ("PRM").

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. •Court-ordered third party payments (e.g., landlord or utility company) on behalf of a non-household member. •Legally obligated child support paid to an individual or agency outside the household, for a child who is now a household member, provided the payments are not returned to the household. BEM 554

The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a non-fluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. BEM 550. Under 7 CFR 273.9,

as amended, \$132.00 is deducted from the gross income of FAP recipients in determining FAP grants.

In the present case, Claimant has \$1556 unearned income from Unemployment benefits. This was calculated by multiplying Claimant's weekly gross benefit \$362 by 4.3 pursuant to Department policy. ($362 \times 4.3 = 1556$). The standard deduction of \$132 was taken resulting in adjusted income of \$1424. In determining Claimant's FAP benefit the Department gave Claimant \$318 child support deduction, this was in error. Claimant has child support expense of \$632 per month. When questioned at hearing regarding why Claimant did not receive the full deduction of child support the Department made reference to a cap on child support expense. Department policy does not support this explanation.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly calculated the Claimant's FAP benefits, and it is ORDERED that the Department's decision in this regard be and is hereby REVERSED. Claimant's FAP benefits shall be rebudgeted back to February 1, 2010 allowing for a \$632 child support expense. Any increase in benefit shall be paid to Claimant in the form of a supplement.

/s/ Aaron McClintic

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

Date Signed: April 8, 2010

Date Mailed: April 14, 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

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