

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant

Reg. No.: 2010-26102

Issue No.: 3003

Case No.: ██████████

Load No.: ██████████

Hearing Date:

April 12, 2010

Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 in Warren, Michigan on Monday, April 12, 2010. The Claimant appeared and testified. ██████████ ██████████ appeared on behalf of the Department.

ISSUE

Whether the Department properly reduced the Claimant's Food Assistance ("FAP") benefits?

FINDINGS OF FACT

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

1. The Claimant is a FAP recipient. (Exhibit 2)
2. The Social Security Administration ("SSA") found the Claimant disabled with a disability onset date of February 3, 2004. (Exhibit 4)

3. The Claimant remains in non-pay status due to the receipt of her deceased husband's Veteran Administration's ("VA") pension benefits. (Exhibits 1, 5)
4. Due to the receipt of VA benefits, the Claimant's case was converted from a "SDV" (Senior, Disabled, or Veteran) to a non-disabled individual.
5. As a result of the coding change, the Claimant's monthly FAP benefits were reduced from \$148.00 to \$60.00. (Exhibit 3)
6. On March 17, 2010, the Department received the Claimant's timely request for hearing. (Exhibit 5)

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"), formerly 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 Bridges Program Glossary ("BPG").

In the instant case, the Claimant was found disabled by the Social Security Administration. The SSA case is in a non-pay status due to the fact that the Claimant receives VA benefits based upon her deceased spouse. The documentation from VA notes that the income is from a pension. The Department, who had previously coded the Claimant's case as a SDV, incorrectly changed the coding to a non-disabled individual resulting in a decreased FAP benefit. During the hearing, and based on the SSA determination, the Department agreed to re-

code the Claimant's case back to a SDV case and recalculate the Claimant's FAP budget. Under this scenario, the Department's actions are not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly changed the Claimant's SDV coding to a non-disabled individual.

Accordingly, it is ORDERED:

1. The Department's FAP determination is not upheld.
2. The Department shall recalculate the Claimant's FAP budget, as agreed, in accordance with department policy.
3. The Department shall supplement the Claimant for any lost benefit (if any) she was entitled to receive if otherwise eligible and qualified in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 4/20/2010

Date Mailed: 4/20/2010

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.

CMM/jlg