

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: 2010-30779
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 3, 2010
Macomb County DHS (20)

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 June 3, 2010. The Claimant appeared and testified. [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 on going recipient of FAP benefits.
- (2) On March 31, 2010 the Department determined that Claimant's FAP benefit would be reduced to \$17 per month.
- (3) Claimant's husband receives unemployment compensation of \$868 per month.

- (4) Claimant receives \$900 per month in social security disability benefits.
- (5) Claimant has shelter expense of \$1196.
- (6) Claimant requested a hearing on April 8, 2010 contesting the reduction 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 federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating 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, according to the aforementioned policy on budgeting, Claimant has \$1768 unearned income from Unemployment benefits and social security benefits. Subtracting \$132 for a standard deduction and \$61 for a medical deduction from \$1768 results with \$1575 adjusted gross income. Claimant qualified for an excess shelter deduction of \$409 as her shelter expenses \$1196 was in excess of \$787 (50 percent of \$1575, income after prior deductions were made) by \$409. Subtracting \$409 from \$1575 results with \$1166 net income. A household of

two with a net monthly income of \$1166 is entitled to a monthly FAP grant of \$17 per month. RFT 260. Therefore the Department's determination of benefits is correct.

Claimant argued at hearing that she has special dietary needs as a diabetic that should be considered when determining her Food Assistance benefits. Department policy does not consider special dietary needs when determining Food Assistance benefits. This Administrative Law Judge has no authority to override Department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly calculated the Claimant's FAP benefits, and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.



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

Date Signed: 06/23/2010

Date Mailed: 06/23/2010

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.

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