

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.: 201032221

Issue No.: 3002, 1018

Case No.: ██████████

Load No.: ██████████

Hearing Date:

May 27, 2010

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 from Detroit, Michigan on May 27, 2010. The Claimant appeared and testified. ██████████ Contact Worker appeared for the Department.

ISSUE

1. Whether the Department properly denied the Family Independence Program ("FIP") benefits based on excess income?
2. Whether the Department properly calculated Claimant's Food Assistance Program ("FAP") benefits?

FINDINGS OF FACT

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

1. The Claimant applied for FAP and FIP benefits on 3/18/10.

2. Claimant and her husband were both receiving unemployment compensation benefits at the time of the application. Claimant testified that the benefits were as follows:
  - a. \$332.00/every 2 weeks - Claimant
  - b. \$616.00/every 2 weeks – spouse
3. The Department did not provide any verification of actual benefits paid.
4. Claimant testified that there are three people in her group.
5. On April 19, 2010, the Department notified Claimant that she was over-income for FIP benefits.
6. Claimant testified that she is responsible for \$925.00/month in rent, as well as utilities.
7. The Department calculated a budget for FAP benefits and awarded Claimant \$62.00 per month in FAP benefits. (Exhibit 1, pp. 2-4).
8. On April 19, 2010 the Department received the Claimant’s hearing request protesting the denial of the FIP benefits and the amount of the FAP benefits.
9. Claimant testified that her spouse’s unemployment compensation benefits terminated at the beginning of May 2010.

#### CONCLUSIONS OF LAW

##### **A. FAP Benefits**

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 Tables (“RFT”).

The federal regulations define household income to include all earned and unearned 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. Under 7 CFR 273.9 deductions for excess shelter are also made. BEM 554. Id. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

When calculating the benefit amount, according to BEM 556, the Shelter set offs are added together to equal A. The income after deductions is divided by two and equals B.  $A - B = C$ . The lesser of C or the maximum shelter amount set forth in RFT 255 will be deducted from the reduced income in determining the final net amount. The amount of food assistance allotment is established by regulations at 7 CFR 273.10 based on a group’s net income.

In the present case, according to the aforementioned policy on budgeting, Claimant’s shelter costs equal  $\$925.00 + \$555.00 = \$1480.00$  (A). Claimant’s unemployment compensation is converted to a monthly amount  $(\$332 + \$616) \times 26 \text{ weeks} / 12 \text{ months} = \$2,054.00/\text{month}$ . 50% of the income less deductions = 961.00 (B).  $(A - \$1480) - (B - \$961) = \$519.00$ , but the maximum shelter amount is \$459.00. Claimant has a net monthly income of \$1463.00. This was obtained by subtracting the standard deduction of \$132.00 and the maximum excess shelter amount of \$459.00 from the gross income of \$2,054.00. A

household of three people with a net monthly income of \$1,463.00 is entitled to a monthly FAP grant of \$87.00 per month. RFT 260. Accordingly, the Department's FAP calculation effective 3/18/10 is reversed.

In addition, at the hearing, Claimant reported that her husband's unemployment compensation ended at the beginning of May, 2010. However, Claimant also stated that she had not yet notified the Department of the change in income. The Administrative Law Judge finds that the Department is on notice, as of the 5/27/10 hearing date, of the income change and a change in FAP benefits should be processed accordingly.

**B. FIP Benefits**

The Family Independence Program ("FIP") was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services administers the FIP program pursuant to MCL 400.10, *et seq.* and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children ("ADC") program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables (RFT).

The eligible group must be in financial need to receive benefits. Need is determined to exist when budgetable income is less than the payment standard established by the department. Program, living arrangement, grantee status and eligible group size are variables that affect the payment standard. BEM 515, p. 1. Specifically, financial need exists when the eligible group passes both the "Deficit Test" and the "Child Support Income Test." To perform the deficit test, subtract the program group's budgetable income from the eligible group's payment standard (BEM 515) for the benefit month. To meet the child support income test, the FIP group's

countable income plus the amount of certified support (or amount of support to be certified) must be less than the eligible group's payment standard. BEM 518.

The payment standard for a group of three, such as the instant case, is \$492.00. Claimant's income of \$2054.00, under either the "Deficit Test" or the "Child Support Income Test" is over \$492.00. Claimant, therefore, does not qualify for FIP benefits. Accordingly, based on the findings of fact and rules of law as stated above, the Department's decision to deny FIP benefits is AFFIRMED.


DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly denied the Claimant FIP benefits and the Department's FIP decision is AFFIRMED.

Furthermore, 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.

Accordingly it is Ordered:

1. The Department's FAP calculation effective 3/18/10 is REVERSED.
2. The Department shall recalculate and reprocess the Claimant's 3/18/10 FAP according to the budget set forth above and supplement the Claimant for any lost benefits she was otherwise entitled to receive.

/s/   
Jeanne M. VanderHeide  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

201032221/JV

Date Signed: June 16, 2010

Date Mailed: June 16, 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.

JV/htw

cc:

