

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.: 2010-32659
Issue No.: 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 24, 2010
Oakland County DHS (2)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 telephone hearing was conducted from Detroit, Michigan on May 24, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly Claimant's Food Assistance Program benefits beginning 3/1/10.

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 applied for FAP benefits on 12/4/09.
2. Claimant has unspecified travel expenses to visit his children during Claimant's parenting time; DHS disregarded this expense in calculating Claimant's FAP benefits.
3. Claimant has an unspecified spousal support obligation; DHS disregarded this expense in calculating Claimant's FAP benefits.

4. Claimant has an unspecified court ordered obligation to provide health insurance for children outside of his home; DHS disregarded this expense in calculating Claimant's FAP benefits.
5. Claimant submitted a hearing request on 3/29/10 disputing the amount of his FAP benefits, specifically disputing whether DHS should have considered the following expenses of Claimant: travel expense involved in parenting time, spousal support and cost of providing health coverage to non-household children.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant made three arguments concerning expenses DHS excluded from his FAP benefits budget. First, Claimant contended that his spousal support obligation should be considered in calculating his FAP benefits. PER BEM 554, expenses that may be counted in calculation of FAP benefits include: child support, child development and care (babysitting), medical, housing and utilities. No other expenses are countable. Spousal support does not fall into the allowable expenses and DHS properly excluded the expense.

Claimant also contended that the cost of driving to visit his child for parenting time should be a factor in Claimant's FAP benefits. Claimant's expense could conceivably be

considered a child support expense. Allowable child support expenses include: 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 (landlord or utility company) on behalf of a non-household member or 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 at 4 and 5. Claimant's expenses in parenting time for his child do not meet the definition of allowable child expense and DHS properly did not budget the expense.

Finally, Claimant contended that he is required by court order to provide medical coverage for his children and that DHS failed to consider this expense in calculation of his FAP benefits. A court order requiring Claimant to provide health insurance is an expense that is court-ordered and paid to a third party. BEM 554 specifically cites "landlord or utility company" as examples of acceptable third parties, however, it is not believed that policy intended these as an exhaustive list of allowable third parties. Claimant's obligation meets the requirements of being a court ordered payment to a third party and on behalf of a non-household member. It is found that Claimant's court ordered obligation to provide health insurance for his children is an allowable child support expense.

DECISION AND ORDER

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly failed to consider Claimant's court ordered child support expenses in providing medical coverage for his children. It is ordered that DHS recalculate Claimant's FAP benefits back to 1/2010, the first full benefit

month going back ninety days from Claimant's hearing request, and to include Claimant's verified court ordered cost of providing health insurance for his children.



Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 6/10/2010

Date Mailed: 6/10/2010

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.

CG/jlg

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