

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.: 2010-32667
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; [REDACTED] also appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly calculated Claimant's 3/11/10 request for Food Assistance Program and State Disability Assistance.

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 Food Assistance Program and State Disability Assistance on 3/11/10.

2. Claimant receives irregular income stemming from a lawsuit settlement in which Claimant's spouse is paid for the hours she spends attending to Claimant's physical needs.
3. The income is paid directly to Claimant's attorneys that handled the lawsuit settlement.
4. The attorneys keep 20% of Claimant's settlement payments for legal fees and send the remaining 80% to Claimant.
5. DHS processed Claimant's 3/11/10 application and budgeted Claimant's income based on the full amount (pre-legal fees) of Claimant's lawsuit settlement.
6. On 3/25/10, DHS denied Claimant's request for SDA and FAP benefits due to excess income
7. Claimant submitted a hearing request on 4/13/10 regarding denial of FAP and SDA benefits specifically disputing that DHS incorrectly budgeted Claimant's income by counting attorney fees which he never received.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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 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).

DHS contends that they correctly budgeted Claimant's income in calculating his eligibility for SDA and FAP benefits. It is not disputed that Claimant receives "sick and accident insurance" payments. DHS is to count the "gross" amount of these payments. BEM 503 at 21. DHS logically argued that Claimant's gross payment (i.e. - pre attorney fees) is the correct amount of income to budget.

BEM 503 also states, "Bridges excludes amounts paid or withheld from unearned income which are essential expenses of obtaining the income. Enter these amounts in the expense screen of the unearned income LUW." The first example cited under the above policy is, "Legal and medical expenses withheld from a lawsuit settlement."

In the present case, Claimant credibly testified that he receives only 80% of his insurance payment due to a reduction for attorney fees. Attorney fees are found to be legal expenses withheld from Claimant's legal settlement that were essential in obtaining the income. It is found that DHS improperly failed to consider that Claimant's income was reduced by attorney fees.

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 calculated eligibility for SDA and FAP benefits. It is ordered that DHS request verifications for the amount of Claimant's income that is reduced by attorney fees.

DHS is to subsequently reconsider Claimant's eligibility for 3/2010 FAP and SDA benefits while adjusting Claimant's gross income for verified attorney fee reductions.



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

Date Signed: 6/7/2010

Date Mailed: 6/7/2010

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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