

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.: 2010-32961
Issue No.: 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 26, 2010
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 on May 26, 2010. Claimant appeared and testified. Darlene Aikins, ES appeared on behalf of the Department.

ISSUE

Whether the Department of Human Services (DHS) properly calculated and reduced Claimant's Food Assistance Program ("FAP") benefits beginning with benefit month April 1, 2010.

FINDINGS OF FACT

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

1. The Claimant is a FAP recipient and is a member of a SDV group.

2. The Claimant receives unearned income from Social Security in the amount of \$1270 and \$123 from the Veteran's Administration (VA) for a total of \$1,393 in gross income.
3. The Department used \$1393 as the Claimant's unearned income when calculating the Claimant April 1, 2010 FAP Budget. Exhibit 3
4. The Department reduced the claimant's FAP benefits because the claimant could not obtain a clear statement from the VA that \$60 was taken each month as an automatic deduction for medical expenses. In addition, in calculating the Claimant's FAP budget for the period beginning 5/1/10, the Department used an unearned income of \$1489. Exhibit 4
5. The Claimant testified that \$39.20 was automatically deducted by the VA from his VA benefit check for life insurance and that the other deduction of \$60 was for medical expenses.
6. On May 3, 2010, the Claimant was requested to verify his medical expenses relative to the automatically deducted charge of \$60 a month from the Veterans Administration as part of his FAP benefits review. Exhibit 2
7. The Claimant requested from the VA, by telephone, a receipt or proof of his medical expenses paid to the VA.
8. The Claimant received a response from the VA dated May 5, 2010, which did not indicate specifically that the expenses shown therein were for medical. Exhibit 5
9. The Claimant made several reasonable efforts to attempt to get the VA to verify, with specificity, the nature of the \$60 medical expense, to no avail, as the VA

correspondence he received does not include a clear statement that the \$60 automatic deduction was for medical expenses. Exhibit 1

10. The Claimant has a FAP group of 2 persons. The Claimant pays rent of \$450 a month and the Claimant pays his heating expenses. The Department properly included this information in computing the Claimant's shelter expense for the FAP budgets. Exhibits 3 and 4.
11. The May 1, 2010 FAP budget, calculated by the Department, lists the Claimant gross income as \$1489 which is not correct. Exhibit 4
12. The Claimant requested a hearing on April 23, 2010 disputing the income amount used by the Department and the reduction of benefits. The hearing request was received by the Department on April 26, 2010.

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 Reference Table Manuals ("RFT").

DHS processed a FAP budget for Claimant on May 1, 2010 and determined that the Claimant was entitled to receive \$85.00 in FAP benefits. (Exhibit 4) This budget also determined that the claimant had \$1489 in unearned income. It is unclear how the unearned income amount was determined by the Department. The Claimant testified that he received

Social Security benefits in the amount of \$1270 and VA disability benefits in the amount of \$123 for a total unearned income of \$1393. This amount was previously used by the Department in a budget it calculated April 1, 2010 through April 30, 2010. (Exhibit 3) This budget determined that the Claimant was entitled to \$133 in FAP benefits. Because there was no evidence to rebut the claimant's testimony regarding his unearned income, the subsequent May 1, 2010 FAP budget is incorrect in that regard. Because there is no explanation why the department used the higher unearned income number, the \$1393 unearned income number should have been used.

Examining further, the issue of verification of the Claimant's medical expenses, with regard to the calculation of the Claimant's FAP benefits, the Claimant credibly testified that he called the VA and sought assistance and specifically asked for a bill or receipt that would document his medical expenses that were deducted from his VA check. The response the Claimant received by mail from the VA did not indicate that the expenses were for medical, but the VA letter is the best information available to the Department at this time. The Claimant made several attempts to get the requested information from the VA and thus made a reasonable effort. The Department utilized a medical expense of \$61 in each of the two budgets it submitted as part of the hearing record.

The Department's Policy provides as follows regarding difficulty with regard to obtaining verifications regarding FAP benefits:

The client must obtain required verification, but you must assist if they need and request help.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment. BAM 130 page 3

In this case, the Department representative offered and agreed to assist the Claimant in obtaining the verification from the VA after the hearing was concluded. Should the Department's efforts

also be unsuccessful, then the Department must use the best information available and its best judgment. Because the Claimant is disabled and receiving VA benefits, the best available information is the current VA letter and that the \$60 automatic deduction is a medical expense as the Claimant credibly testified to same under oath.

Based upon the forgoing findings and conclusions, the Department is required to recalculate the Claimant's FAP benefits utilizing a gross monthly income of \$1393 and a medical expense of \$60. Additionally, the Claimant's group size (2) and SDV designation and Shelter expense, as verified in the hearing file, is also to be used by the Department when recalculating the budget.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS did not sustain its burden to demonstrate that it properly calculated Claimant's FAP beginning April 1, 2010 and is required to recalculate the budget in conformance with this decision.

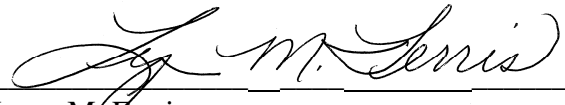
Accordingly, the Department's FAP benefit determination in its Notice of Case Action is REVERSED.

The Department is therefore ORDERED:

The Department shall recalculate the claimant's FAP budget for the month beginning April 1, 2010 and shall utilize the gross monthly income amount of \$1393 and medical expense of \$60 per month.

The Department is further ordered to supplement the Claimant for FAP benefits he was otherwise entitled to receive retroactive to April 1, 2010.

The Department is further ordered to assist the Claimant in obtaining the medical verification information from the VA regarding the Claimant's VA medical expense. If successful, the Department shall utilize the verified medical expense in calculating the Claimant's FAP budget prospectively. If no further information is forthcoming after reasonable effort to obtain same, the Department shall use the medical expense of \$60 per month as the best information it has available.



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/21/10

Date Mailed: 06/23/10

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.

LMF/dj

cc:

