

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.: 2010-34791
Issue No.: 3002, 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 10, 2010
Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Lynn 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 by the undersigned on June 10, 2010. Claimant appeared and testified on her own behalf. Terry Bailey, FIM and Darlene Bascomb Moore, ES appeared on behalf of the Department.

ISSUE

Whether the Department of Human Services (DHS) properly reduced the claimant's Food Assistance Program ("FAP") benefits.

Whether the Department of Human Services (DHS) 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 as material fact:

1. Claimant applied for Food Assistance (FAP) on March 15, 2010.
2. After the Claimant began receiving her FAP benefits, she questioned the amount of her benefits and the earned income that was used by the Department to prepare the FAP Budget.
3. The Claimant's current FAP benefits are subject to a prior recoupment.
4. Claimant has a FAP benefit group of one.
5. The Claimant weekly gross unemployment check is \$351. Exhibits 2 and 7.
6. Claimant's rent is \$482 per month.
7. Claimant is responsible for paying heat.
8. The Claimant received no income for the period March 15, 2010 through March 20, 2010. Exhibit 7
9. For the period ending March 27, 2010, the claimant received \$351 in unearned income. Exhibit 7. The Budget prepared by the Department indicates the Claimant had gross unearned income, during the period, in the amount of \$1145 which is in error. The budget also uses an incorrect excess shelter deduction of \$459 instead of \$359 used in the subsequent budget for the period June 1, 2010 through June 30. Exhibit 9
10. Beginning June 1, 2010, the Department properly calculated the Claimant's FAP benefits to be \$16.00 per month before recoupment of \$16.00. The Department correctly determined the claimant's gross unearned income from unemployment benefits to be \$1388. ($\$351 \text{ per week} \times 4.15 = \1509). Exhibit 4.

11. The Department correctly calculated the Claimant's shelter allowance using the correct rent of \$482 per month and granted the utility credit of \$555. The excess shelter amount of \$359 is correct as calculated. Exhibit 3.
12. It is unclear, from the record, whether the Claimant is a Senior or Disabled group.
13. The Claimant received the following FAP benefits: March 15 through March 31, 2010, the Claimant received \$18.00; April 1 through April 30, 2010, the Claimant received \$33.00; and for the period of May 1, 2010 through May 28, 2010, the Claimant received \$16.00.
14. The Claimant's FAP benefits of \$16, June 1, 2010, are currently reduced to \$00 due to a previous recoupment due to an over-issuance.
15. Claimant filed a Hearing Request on October 21, 2009 objecting to the amount of her 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 Reference Table Manuals ("RFT").

DHS processed a FAP budget for Claimant covering the period March 15, 2010 through March 31, 2010 which appears incorrect as the budget includes the incorrect amount of unearned income. The Claimant earned \$351 in unemployment benefits; the Budget utilized a figure of

\$1145 in unearned income. Based upon the unearned income information provided by the Department at the hearing for unemployment benefits received, this income amount appears to be in error as regards to the unearned income amount. Exhibit 9. It is also unclear why the maximum excess shelter deduction of \$459 was used in this budget, as a different number \$359 was used by the Department in the June 2010 budget. Exhibit 4. The only basis for using the \$459 amount would be if the Claimant is a senior or is disabled. BEM556 pages 4 and 5. BEM 556 directs how FAP benefits are calculated.

The June 2010 budget is correct. Claimant reported weekly unemployment benefits of \$351.00. The weekly check was multiplied by 4.3 to convert the income into a full month and results in a monthly gross income of \$1,509, which is the number ultimately used for the June Budget which this decision finds is correct and the FAP benefit amount of \$16 is correct. The only discrepancy for this budget is whether the correct excess shelter deduction of \$359 is correct with regards to the issue of whether the claimant is not a senior or disabled. Likewise, even though the May budget was not provided, the \$16 benefit amount is correct based on the review of the June budget that was provided.

Based upon a review of the Department's budget, it is found that the Department properly calculated the Claimant's FAP benefits amount beginning June 1, 2010 and that the FAP Budget covering March 15 through March 31, 2010 appears to be in error as noted above and must be recalculated.

As no information was submitted to explain how the Department determined the FAP amount of \$33 for April, and no FAP budget was provided, a determination cannot be made regarding whether the budget for this month was properly calculated. For the month of April, the Department is required to rerun the budget to utilize the unearned weekly income amount of

\$351, unless the Claimant also has other earned or unearned income which is required to be included. Additionally, the Department is ordered to make a proper determination as to whether the Claimant is a senior or disabled so it may arrive at the proper excess shelter amount.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly calculated Claimant's FAP beginning June 1, 2010 and improperly calculated the Claimant's FAP budget beginning March 15 2010. Accordingly, the Department's determination of the Claimant's FAP reduction is REVERSED in part.

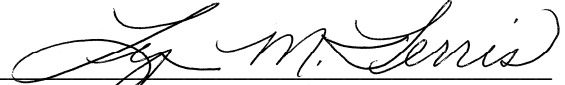
Accordingly, it is ORDERED:

The Department shall recalculate the Claimant's FAP benefits for the period March 15, through March 31, 2010 using the unearned income amount of \$351. The Department shall also determine the correct excess shelter amount based upon whether the Claimant is either senior or disabled. The amount of the Claimant's rent and utility expense is correct and is to be utilized for purposes of preparing the new Budget.

The Budget for the month of June 2010 and the corresponding benefit amount of \$16 is correct and is affirmed. The Claimant also received \$16.00 in benefits for the month of May 2010 which appears to be correct.

The Department is ordered to recalculate the budget for the month of April 2010 utilizing weekly unearned income based upon the amount of unemployment benefits receive for the month at \$351 a week as shown on Exhibit 7, and shall also determine the correct excess shelter amount based upon its determination as to whether the Claimant is either senior or disabled. The amount of the Claimant's rent and utility expense is correct and is to be utilized for purposes of preparing the new Budget.

The Department shall supplement the Claimant for any FAP benefits she was otherwise entitled to receive based on its recalculation of the budgets as ordered by this decision.



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

Date Signed: 06/22/10

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:

