

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201037785
Issue No.: 1015; 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 9, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne 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 hearing was conducted from Highland Park, Michigan on August 9, 2010. The Claimant appeared and testified. [REDACTED], FIS appeared for the Department.

ISSUE

Whether the Department properly calculated Claimant's Family Independence Program ("FIP") and 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. The Claimant is an active FAP and FIP recipient.
2. Claimant began receiving SSI benefits of \$674.00 per month. (Exhibit 1).
3. The Department recalculated the FIP and FAP with the SSI income reducing the benefits to \$274/month in FIP and \$341/month in FAP effective June 1, 2010.
4. Claimant testified that she has a group size of three.

5. The Claimant testified that she is responsible for property taxes in the amount of \$727.00 per year as well as utilities. Claimant does not have a mortgage or pay homeowners insurance.
6. Claimant testified that she does not have any outstanding monthly medical expenses.
7. The Department did not provide any budgets to support its FIP and FAP calculations.
8. On May 27, 2010 the Department received the Claimant's hearing request protesting the amount of the FAP and FIP benefits.

CONCLUSIONS OF LAW

A. 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. SSI income is not included in a FIP budget. BEM 503.

The payment standard for a group of three, such as the instant case, is \$492.00. The Department did not provide a budget to explain why the FIP decreased, as the SSI income should not have been included. Without the SSI income, Claimant would be entitled to the full amount of the FIP grant. Accordingly, the Department should rerun the FIP budget excluding Claimant's SSI income. Based on the above findings of fact and rules of law, the Department's decision to decrease FIP benefits is REVERSED.

B. 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"), formerly 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 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. PEM/BEM 550. Under 7 CFR 273.9, as amended, \$135.00 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. PEM/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, based on Claimant's testimony of income and according to the aforementioned policy on budgeting, Claimant's monthly shelter costs equal $\$60 + \$555 = \$615.00$ (A). 50% of the income ($\$674$ SSI + $\$274$ FIP) less deductions = $\$408.00$ (B). $(A-\$615)-(B-\$408)=\$207.00$. Claimant, therefore, has a net monthly income of $\$609.00$. This was obtained by subtracting the standard deduction of $\$132.00$ and the excess shelter amount of $\$207.00$ from the gross income of $\$948.00$. A household of three persons with a net monthly income of $\$439.00$ is entitled to a monthly FAP grant of $\$343.00$ per month. RFT 260.

The evidence shows that the Department is paying Claimant $\$341.00$ in monthly FAP benefits based on a FIP grant of $\$274.00$ per month. However, as stated above, Claimant's SSI benefit should not have been included in her FIP grant calculation. The Department will need to rerun the FAP budget after the FIP is recalculated. Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination is Reversed.

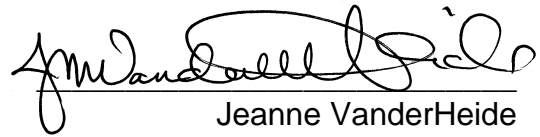
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly determined the Claimant FIP and FAP benefits.

Accordingly, it is ORDERED:

1. The Department's FIP and FAP decisions effective 6/1/10 are REVERSED.
2. The Department shall recalculate and reprocess Claimant's FIP and FAP from 6/1/10 forward excluding SSI income from the FIP budget.
3. The Department shall supplement the Claimant for any lost benefits she was otherwise entitled to receive.

/s/



Jeanne VanderHeide
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: August 13, 2010

Date Mailed: August 13, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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/hw

cc: 

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