

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: 201037828
Issue No: 3002; 3003; 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 28, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on June 28, 2010.

ISSUE

Was the claimant's FAP allotment computed and allocated correctly?

Is the Department entitled to recoup an overissuance of 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 was an FAP recipient in Wayne County.
- (2) Claimant's FAP budget was run after a redetermination and claimant's budget indicated claimant was eligible for FAP benefits in the amount of \$652.

- (3) Claimant filed for hearing on April 4, 2010, alleging that DHS incorrectly computed her budget.
- (4) In April, 2010, DHS began an administrative recoupment of \$65 per month upon claimant's FAP case.
- (5) There is no evidence as to what the recoupment is for, where there was an overissuance of benefits, or how much of an overissuance was proper.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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 or Department) 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 Bridges Reference Manual (BRM).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM, Item 500. A standard deduction from income of \$132 is allowed for certain households. Certain non-reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$459 for non-senior/disabled/veteran households. BEM, Items 500 and 554; RFT 255; 7 CFR 273.2. Only heat, electricity, sewer, trash and telephone are allowed deductions. BEM 554. Any other expenses are considered non-

critical, and thus, not allowed to be deducted from gross income. Furthermore, RFT 255 states exactly how much is allowed to be claimed for each deduction.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the Department properly computed the claimant's gross income. The gross unearned income amount must be counted as income, which is \$1285 in the current case, before any deductions. BEM 500. These amounts were verified by the claimant during the course of the hearing.

The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. Claimant verified that her rent and housing expense deduction was accurate. Claimant was given a utility deduction. The Administrative Law Judge computed claimant as having a net income of \$637 dollars. The Department, in compliance with the federal regulations, has prepared issuance tables which are set forth at Bridges Reference Manual, Table 260. The issuance table provides that a household with household size and net income of the claimant is eligible for an FAP allotment of \$652. The Administrative Law Judge has reviewed the budget and found no significant errors. Claimant was unable to point out specifically what parts of the budget she felt were in error. Therefore, the undersigned finds that the Department correctly determined the claimant's FAP allotment of \$652.

With regard to the recoupment that is being processed against the claimant's case, the undersigned notes that \$65 per month is being removed from claimant's FAP benefits. However, there is no evidence with regard to the exact amount of the overissuance, how the overissuance was calculated, or whether the overissuance is even proper. Therefore, the Administrative Law Judge holds that the Department has not met their burden of proof in showing that recoupment is proper in the current case, and therefore, any such recoupment must be denied. Claimant must be supplemented for any benefits that were taken from her FAP grant by this recoupment.

DECISION AND ORDER

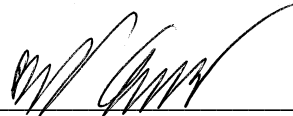
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to award claimant an FAP allotment of \$652 was correct. However, the Department has not shown that there is an overissuance in the current case warranting an administrative recoupment.

Accordingly, the Department's decision is **AFFIRMED IN PART** and **REVERSED IN PART**.

Recoupment is **DENIED**.

The Department is **ORDERED** to issue to the claimant any supplemental benefits that were removed from the claimant's FAP grant for this recoupment.

/s/



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 14, 2010

Date Mailed: July 14, 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.

RJC/hw

cc:



