

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

IN THE MATTER OF::



Reg No. 201042890
Issue No. 3015
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: September 8, 2010
Van Buren County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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, an in-person hearing was held on September 8, 2010.

ISSUE

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's eligibility for 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. Pursuant to an administrative Decision and Order issued March 1, 2010, by Judge Magyar, the department prepared a FAP budget for April 2009 and May 2009. For April 28, 2009 through April 30, 2009, claimant had total monthly earned income of [REDACTED]. A standard 20% of earnings were deducted, leaving gross FAP income of [REDACTED]0. A standard deduction of [REDACTED] was included, leaving adjusted gross FAP income of [REDACTED]. Total allowable shelter costs of [REDACTED] were included. After all allowable deductions were included, claimant had net FAP income of [REDACTED]. The household was eligible for a prorated benefit for April 2009 in the amount of [REDACTED]. Department

Exhibit A, pg 5-5A. March 25, 2010, the department sent claimant written notice of April's benefit. Department Exhibit A, pg 6.

2. For May 2009, [REDACTED] monthly earned income was included. A standard 20% was deducted, leaving gross FAP income of [REDACTED]. A standard deduction of [REDACTED] was included leaving adjusted gross income [REDACTED]. Allowable housing expenses were included in the amount of [REDACTED]. After all allowable deduction were included, claimant had net income FAP income of [REDACTED]. Claimant had excess income to qualify for FAP. Department Exhibit A, pgs 7-7A. March 26, 2010, the department sent claimant written notice that she was not eligible for benefits for May 2009. Department Exhibit A, pg 8.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department manuals provide the following policy statements and instructions for caseworkers:

When determining eligibility for FAP, all income must be included unless it is specifically excluded. Earned income is not excluded and must be counted when determining FAP eligibility. The FAP program provides for a deduction from earned income of 20% and a deduction for the cost of child care when necessary to enable a FAP household member to work. A standard deduction from income of [REDACTED] is allowed for each household. Certain non-reimbursable medical expenses above [REDACTED] per month may be deducted for senior/disabled/veteran group members. Another deduction is provided if monthly shelter costs are in excess of 50% of the household's income after all the other deductions have been allowed, up to a maximum of [REDACTED] for non-senior/disabled/veteran households. Bridges Eligibility Manual (BEM) 500, 550, 554; Program Reference Table (PRT) 255; 7 CFR 273.2.

At hearing, the department provided no pay stubs or wage records to support the amount of income included on its FAP budgets. The department was ordered to prepare budgets for April 2009 through October 2009. However, no budgets were provided at hearing for the months of June 2009 through October 2009.

Accordingly, the department has not met its burden of proof and its FAP determination can not be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services did not act in compliance with department policy when it determined claimant's Eligibility for Food Assistance Program benefits.

Accordingly, the department's action is, hereby, REVERSED. The department is to initiate a determination of claimant's financial eligibility for FAP for months April 2009 through October 2009 in compliance with department policy and this decision and order. The department shall inform claimant in writing of each month's eligibility, to include an account of actual income and deductions used each month.

_____/s/_____
Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 21, 2010

Date Mailed: December 21, 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.

JAB/db

cc:

