

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: 20105168
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 7, 2009
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 December 7, 2009.

ISSUE

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

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 receiving a FAP allocation of \$84 in Wayne County.
- (2) Claimant was receiving her FAP allocation as part of the Michigan Combined Application Project (MiCAP), a Food Assistance demonstration project sponsored by the Food Nutrition Service.

- (3) MiCAP is a series of waivers that allows DHS to issue Food Assistance Program (FAP) benefits to Supplemental Security Income (SSI) individuals who qualify for this program and has a legal base in the Food Stamp Act of 1977.
- (4) Claimant has a rental and shelter expense amount of \$280 per month.
- (5) Claimant applied for FAP benefits, post MiCAP approval, at the DHS branch in question, as well as one other DHS branch, through a mail-in application.
- (6) On the same date, claimant filed a hearing request stating that her FAP case, which had been given to her through the Social Security Administration, had been closed.
- (7) It was discovered that claimant had had an FAP case closed some months before by a different DHS branch, and that claimant had also recently applied at this same branch for FAP benefits.
- (8) It was also discovered that claimant was receiving FAP benefits through the MiCAP program.
- (9) Claimant's FAP application was denied because claimant was already receiving benefits.
- (10) Claimant also stated in her hearing request that, in addition to disputing whether her Social Security FAP case should have closed, claimant was disputing the amount of her FAP allotment.

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).

The Michigan Combined Application Project (MiCAP) is a Food Assistance demonstration project approved by the Food and Nutrition Service (FNS). MiCAP is a series of waivers that allows DHS to issue Food Assistance Program (FAP) benefits to Supplemental Security Income (SSI) individuals who qualify for this program. BEM 618.

The program is administered by the centrally located MiCAP unit. Final eligibility determination and redeterminations are the responsibility of the MiCAP unit.

The targeted MiCAP populations are SSI individuals with the following characteristics:

- Age 18 or older.
- Receives the maximum SSI amount but does not receive any other income.
- Meets the Social Security Administrations (SSA) definition of independent living (Living arrangement A).
- Resides in Michigan.
- Purchases and prepares food separately.
- Are not currently active in the Food Assistance Program. BEM 618.

Once an individual is determined eligible for MiCAP, eligibility will be for a 36 month benefit period. The amount of FAP benefits a MiCAP individual receives is determined by their total shelter, heat and utility expenses. If an individual's total expenses are below \$600, the FAP benefit is \$84 per month. If the total expenses are equal to or exceed \$600, the benefit amount is \$129 per month. BEM 618.

While claimant's hearing request stated many things, the undersigned notes that the great weight of the evidence shows that claimant currently has an open FAP case, and was not facing case closure. With regard to claimant's contention that the Social Security Administration closed her FAP case, the undersigned merely notes that the Social Security Administration has not, nor has ever, issued or controlled food stamps. The Food Stamp Program, in its current incarnation was established by the Food Stamp Act of 1977 and is administered by the U.S. Department of Agriculture. Benefits are distributed by each individual state; there is no national food stamp program, nor has there been a national food stamp program in almost 40 years. See:

<http://www.fns.usda.gov/fsp/rules/Legislation/about.htm>

Regardless, even if claimant was correct in her contention regarding a national food stamp program, the undersigned, may only decide cases within the jurisdiction of the State of Michigan Department of Human Services, and is powerless to act upon a case involving the Social Security Administration, the USDA, or any other federal agency. BAM 600. Therefore, given that the Department has stated that claimant is not facing an FAP case closure, nor can claimant point to a case closure by the relevant state agency, the undersigned cannot rule upon an issue that does not exist, and will not do so here.

However, claimant did request a review of her FAP allocation, currently set at \$84 by MiCAP.

The Administrative Law Judge has reviewed claimant's benefit amount and is of the opinion that claimant's benefit amount of \$84 is correct. BEM 618 states that when housing and utility expenses for a claimant in the MiCAP program are below \$600, claimant is entitled to \$84 in FAP benefits. Claimant testified that her total housing and utility expenses are \$280 per month. This is less than \$600 dollars. Therefore, the undersigned finds that the Department

correctly determined the claimant's FAP allotment of \$84 is correct. This amount is actually far in excess of the amount of FAP benefits claimant would normally be entitled to if claimant were to close her MiCAP case and go through the DHS proper for FAP benefits.

Finally, claimant argued that federal law mandates a minimum FAP benefit amount of \$133. After exhaustive research, the undersigned was unable to find any mention of this number as the minimum guaranteed FAP benefit amount. In fact, RFT 260, which contains the minimum and maximum FAP allotments as allowed by the USDA and the Food Stamp Act of 1977 for the current year, states that the current minimum FAP amount is \$16. Therefore, the undersigned finds claimant's arguments to be without merit.

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 a FAP allotment of \$84 was correct.

Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: 01/21/10

Date Mailed: 01/22/10

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.

2010-5168/RJC

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/dj

cc:

