

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.: 2010-56044  
Issue No.: 3003/2026  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: October 18, 2010  
Wayne County DHS (18)

**ADMINISTRATIVE LAW JUDGE:** Lynn M. 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 held on October 18, 2010. The claimant appeared and testified. [REDACTED], the Claimant's husband appeared as a witness and testified. [REDACTED], Family Independence Manager, [REDACTED], ES, appeared on behalf of the Department.

**ISSUE**

1. Whether the Department properly calculated the Claimant's Food Assistance Program ("FAP") benefits, based on Claimant living with her legally married husband?
2. Whether the Department properly calculated the Claimant's MA deductible based on both Claimant's and her married husband's income?

**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 active FAP and MA recipient.
2. On August 10, 2010 the claimant's spouse, [REDACTED] applied for the FAP and Medical Assistance.
3. During the application interview the claimant's husband had reported that he and the claimant were married on July 15, 2010.

4. At the time the husband applied for benefits the claimant had an open case.
5. The department, when computing the claimant's FAP and Medical Assistance included both claimant's and her spouse's income.
6. The claimant's FAP benefits were decreased to \$28 per month. Exhibit 1
7. Both the claimant and her spouse were determined to have a medical spend down in the amount of \$1149. Exhibit 2
8. The claimant confirmed that the department used the correct RSDI unearned income for both the claimant and her spouse for a total of \$1090 when computing the claimant's FAP budget and medical assistance spend down budget.
9. The claimant also confirmed that she paid rent in the amount of \$650 per month.
10. At the time of the hearing, the claimant and her spouse had filed for divorce, but had not received a final judgment of divorce.
11. The claimant requested a hearing on September 19, 2010 which was received by the department on September 20, 2010.

### **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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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).

FAP benefits are paid based on an individual's family group. The relationship of the people who live together affects whether they must be included or excluded from the group. People included in the group include spouses and children (natural, step and adopted) who purchase and prepare food together. Spouses who are legally married and live together must be in the same group. BEM 212, p. 1. The relationship(s) of the people who live together affects whether they must be included or excluded from the group. In order to determine a group composition, the Department must first determine

if the individual must be included in the group. If they are not mandatory group members, the Department must determine if the individuals purchase and prepare food together or separately. PEM 212, p. 1.

In the subject case, the testimony and evidence demonstrates that Claimant and her spouse were living together after they were married on July 15, 2010. Since Claimant and her husband are still legally married and living together, the Claimant's husband must be included in the FAP and MA budgets. The Administrative Law Judge, therefore, finds that the Department properly calculated the FAP and MA benefits.

The federal regulations define household income to include RSDI benefits. 7 CFR 273.9(b). Medical expenses over \$35.00 are taken into consideration for groups with one or more SDV (Senior, Disabled or Veteran). BEM 554, p. 1. The expense does not have to be paid to be allowed, but it does have to be incurred. Id. at p. 6.

In the subject case, Claimant confirmed both her spouse and her husband's income as correct as utilized by the Department in computing the Claimant's medical assistance spend down budget. The department correctly included both claimant and her spouse's income when computing the medical spend down amount, BEM 550. Based upon the budget as submitted the department's calculations are correct and the spend down amount of \$1149 is correct.

A review of the FAP budget indicates that the department's calculations with regard to the amount of the claimant's food assistance are also correct. This is based upon the testimony at the hearing where the claimant and her spouse confirmed the amount of their income to be \$801 and \$1089.50 respectively. The claimant also affirmed that her shelter expense was \$650 per month. Based upon these two confirmations the FAP budget as calculated is correct and the appropriate food assistance the claimant is entitled to receive in the amount of \$28 is also correct.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

It should be noted that upon receiving a final judgment of divorce the claimant's ex-husband will be entitled to apply for both FAP and medical assistance on his own behalf and the claimant should report that changed to the department so that her food assistance and medical assistance can be adjusted to accordingly change the group size. The calculation of food assistance will be based upon whether the claimant and her ex-husband purchase prepare and eat meals together which fact shall be determined independently by the department.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly reduced Claimant's FAP benefits and MA benefits to a deductible based on Claimant living with her legal husband.

Accordingly, the Department's FAP and MA eligibility determinations are AFFIRMED



---

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

Date Signed: 10/19/2010

Date Mailed: 10/19/2010

**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 of the rehearing decision.

LMF/jlg

cc:

