

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: 20105814
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 14, 2009
Oakland 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 14, 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 applied for an FAP allocation in Oakland County.
- (2) Claimant was receiving RSDI benefits of \$999.
- (3) \$96.40 of this was deducted from his RSDI check for Medicare premiums.
- (4) DHS made a determination of claimant's benefits.

- (5) Claimant's FAP budget was run and claimant's budget indicated claimant was eligible for FAP benefits in the amount of \$153 effective on October 1, 2009.
- (6) Claimant filed for hearing on October 25, 2009, alleging that DHS incorrectly computed his budget.

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 each household. 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 \$300 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. Policy states that \$33 is to be

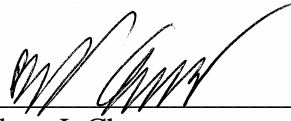
deducted for telephone expenses, and \$93 is to be deducted for electricity expenses, regardless of the actual bill. \$555 dollars may be deducted if the claimant has heating costs.

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 benefit amount must be counted as unearned income, which is \$999 in the current case, after counting the total member group's RSDI benefits, before any deductions. BEM 500. These amounts were verified by the claimant during the course of the hearing. While the claimant argued that the Department should have deducted his Medicare premium from this amount, all benefits must be calculated by the gross amount. The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. Claimant stated that his rent and housing expenses was \$500 per month. Claimant was given a heating deduction of \$555. Finally, claimant's Medicare premium, minus a \$35 dollar deductible, was subtracted from his budget. The Administrative Law Judge computed claimant as having a net income of \$154 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 \$153. 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 he felt were in error. Therefore, the undersigned finds that the Department correctly determined the claimant's FAP allotment of \$153.

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 \$153 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: 12/23/09

Date Mailed: 01/06/10

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.

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:

