

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.: 2010-5976
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
December 16, 2009
Wayne County DHS (73)

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 December 16, 2009. The Claimant appeared and testified. [REDACTED] FIM appeared on behalf of the Department.

ISSUE

Is the department correct in determining claimant's FAP benefit?

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.
- (2) The department determined claimant's FAP benefit to be \$73 per month effective November 1, 2009, reduced from \$151.
- (3) The correct amount of claimant's FAP benefit is \$143 per month.

- (4) Claimant has income of \$2334 per month consisting of child support and social security benefits.
- (5) Claimant requested a hearing on October 22, 2009 and again on November 16, 2009 contesting the reduction of her FAP benefits and questioning how the amount of child support received was calculated.

CONCLUSIONS OF LAW

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. PEM 550. Under 7 CFR 273.9, as amended, \$135.00 is deducted from the gross income of FAP recipients in determining FAP grants.

In the present case, claimant has \$2334 unearned income from child support and social security benefits. The department erred when it calculated the amount of child support received for [REDACTED]. The department determined the amount of child support to be \$466 per month. The child support printout from Bridges shows \$466.96 was received in August 2009, \$233.48 was received in September 2009 and no payments were received in October 2009. (Department

Exhibit1 page21) Pursuant to program policy PEM 505 an average of child support payments in the past three calendar months should be used in determining the amount of child support received. $(466.96+233.48)/3= 233$. \$233 is the correct amount for the child support received for [REDACTED]. The amounts of child support received for the other children in claimant's household were correct.

The standard deduction of \$170 was subtracted from \$2334 resulting in adjusted income of \$2164. Claimant has shelter expense of \$1055, and does not qualify for excess shelter deduction. The Food Assistant Issuance Table shows \$143 in benefit for \$2164 net income for a household of 5. RFT 260. This is the correct amount that claimant is entitled to.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the department was incorrect in the determination of FAP benefits, and it is ORDERED that the Department's decision in this regard be and is hereby REVERSED. The Department shall re-budget and provide the increased benefits retroactive to November 1, 2009. This will require the department to pay a supplement of \$70 per month.



Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 1/12/2010

Date Mailed: 1/12/2010

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.

2010-5976/AM

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.

AM/jlg

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