

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.: 2010-07289
Issue No.: 3002, 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 18, 2010
Macomb County DHS (36)

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 conducted on March 18, 2010. Claimant appeared and testified. Patricia Bailey appeared on behalf of the Department.

ISSUE

Whether the Department of Human Services (DHS) properly calculated Claimant's Food Assistance Program ("FAP") benefits beginning with benefit month January 2010.

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 had a FAP certification period beginning 3/01/09 through 2/28/10.
2. Claimant has a FAP benefit group of three.
3. Claimant is part of a senior, disabled and disabled veteran group.

4. Claimant receives \$479 in Social Security Benefits (RSDI) per month. This benefit increased in January, 2010.
5. The Claimant also receives SSI in the amount of \$232 per month. Exhibit 1
6. Claimant receives child support for child [REDACTED] in the amount of \$204 (Dec. 09), \$175 (Jan. 10) and \$237.00 (Feb. 10) for an average monthly amount of \$205. Exhibit 2
7. Claimant receives child support for child [REDACTED] in the amount of \$204 (Dec. 09), \$175 (Jan. 10) and \$232.00 (Feb. 10) for an average monthly amount of \$203. Exhibit 2
8. Claimant's rent is \$168 per month.
9. Claimant is responsible for paying heat. Exhibit 3
10. DHS calculated Claimant's monthly FAP benefit amount to be \$271 per month beginning September 2009 through March 2010. Exhibit 4
11. Claimant filed a Hearing Request on November 4, 2009 objecting to the amount of his 12/2009 FAP benefits.

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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Table Manuals ("RFT").

DHS processed a FAP budget for Claimant beginning August 2009. Claimant does not dispute any of the information used by DHS in calculating the FAP budget; however, the claimant's Social Security recently increased as did the Claimant's rent. Claimant is disputing the calculated FAP benefit amount of \$271 per month because he requires more assistance. BAM 556 directs how FAP benefits are calculated.

The Claimant's group receives all unearned income. The gross unearned income totals \$1119 per month. This figure is the total of Social Security, plus SSI, plus child support for each child. ($\$479 + \$232 + \$205 + \$203 = \$1119$) (cents dropped).

Claimant's total monthly gross income is \$1119. BEM 556 also requires a standard deduction based on Claimant's FAP group size (3 persons) of \$132. Subtracting the standard deduction from \$1119 creates an adjusted gross income of \$987.

Claimant's housing expense is \$168 (rent) and by paying heat, Claimant receives the maximum \$555 utility standard expense. Claimant's total shelter expenses are calculated by adding the housing expenses credit with utility expenses. Claimant's total shelter expense is \$723.

Claimant's excess shelter amount is \$230; the difference between Claimants's housing costs (\$723) and half of Claimant's adjusted gross income (\$493). In Claimant's circumstances, the excess shelter amount (\$230) is less than the shelter maximum deduction of \$459.

The lesser of the excess shelter costs or maximum shelter deduction is to be subtracted from Claimant's adjusted gross income to determine Claimant's net income. In the present case, Claimant's net income is \$757 ($\$987 - \230). Per RFT 255, the correct amount of FAP benefits for a group of three with a net income of \$757 is \$298 per month.

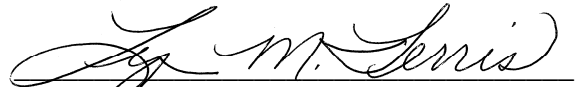
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS did not properly calculate Claimant's FAP beginning 1/1/2010.

Accordingly, the Department's FAP benefit determination is REVERSED.

It is ORDERED:

The Department is required to recalculate the Claimant's FAP benefits based on the budget set forth above, and supplement the Claimant's FAP benefits, as necessary, for the months of January, February and March 2010 and any other month's which are required to be supplemented.



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

Date Signed: 04/13/10

Date Mailed: 04/16/10

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.

LMF/dj

cc:

