

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.: 2011-3478
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: January 27, 2011
DHS County: Wayne (82-35)

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 Claimant's request for a hearing. After due notice, a telephone hearing was held on January 27, 2011. Claimant appeared and testified. [REDACTED], and [REDACTED], appeared on behalf of the Department of Human Services (Department).

ISSUE

Was the Department correct in determining Claimant's Food Assistance Program (FAP) benefits?

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 ongoing recipient of FAP benefits.
2. Claimant has a rental obligation of \$617 per month.
3. Claimant pays \$166 per month towards arrearage on rent.
4. Claimant requested a hearing on October 7, 2010, contesting the determination of FAP benefits.

CONCLUSIONS OF LAW

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, formerly known as the Family Independence Agency, administers FAP 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 Program Reference Manual (PRM).

SHELTER EXPENSES--Allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. Do **not** prorate the shelter expense even if the expense is shared. Shelter expenses are allowed when billed. The expenses do **not** have to be paid to be allowed. Late fees and/or penalties incurred for shelter expenses are **not** an allowable expense.

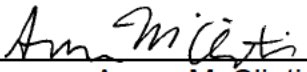
Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group.

The expense must be a continuing one. Payments that exceed the normal monthly obligation are **not** deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, **and** it has **not** been allowed in a previous FAP budget. Additional expenses for optional charges, such as carports, pets, etc. are **not** allowed. BEM 554.

In the present case, Claimant stopped paying rent and the Section 8 agency stopped paying rent due to a dispute regarding repairs to the premises. In settlement of that dispute, Claimant agreed to make payments in addition to her regular monthly rental obligation. Some of these payments went towards late fees and penalties and some of these payments went towards shelter expenses that were allowed in previous FAP budgets and were, therefore, not allowed. BEM 554. Nothing was presented at the hearing showing that, when Claimant stopped paying rent, it was reported to the Department and it was removed from the budget. Therefore, the Department's determination to not include the additional \$166 payment towards shelter expense is proper and correct and the Department's determination of benefits is proper and correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was correct in the determination of Claimant's FAP benefits, and it is ORDERED that the Department's decision is hereby AFFIRMED.



Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 31, 2011

Date Mailed: February 1, 2011

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.

AM/pf

cc:

