

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.: 20114619
Issue No.: 3015
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 6, 2010
Wayne County DHS

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 6, 2010. The Claimant appeared along with her sister, [REDACTED], and both testified. [REDACTED], FIM appeared on behalf of the Department.

ISSUE

Did the Department properly determine Claimant's Food Assistance Program eligibility?

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) The Department determined that Claimant had excess income for FAP.
- (3) Claimant has gross unearned income of \$1640 from unemployment compensation and child support received.
- (4) Claimant has gross earned income of \$666 from employment income with HMS host.

- (5) Claimant did not dispute the unearned income amounts used by the Department.
- (6) Claimant requested a hearing on October 7, 2010 contesting the closure of FAP.

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"), formerly 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 Program Reference Manual ("PRM").


In the present case, the amount of Claimant's earned income is in dispute. The Department determined that Claimant has \$2202 earned income. The Department used income information from The Work Number. This included incorrect information regarding the amount of tips Claimant receives. Claimant submitted several pay stubs as well as a statement from her employer that the information used by the Department was inaccurate. This Administrative Law Judge finds the pay stub information to be more accurate than the information relied upon by the Department and that the pay stub information should be used to calculate Claimant's FAP benefits. As the Claimant pointed out at hearing, if she had the employment income that the Department was using then she would not have been eligible for unemployment benefits. Therefore the Department's closure of Claimant's FAP benefit due to excess income was improper and incorrect.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's FAP benefits, and it is ORDERED that the Department's decision in this regard be and is hereby REVERSED. Claimant's FAP case shall be reinstated and recalculated as of the date of closure, using pay stub information for Claimant's earned income. Any missed benefits

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shall be paid to Claimant in the form of a supplement.



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

Date Signed: December 10, 2010

Date Mailed: December 10, 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.

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