

**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.: 2011-12580
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: February 28, 2011
St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was held in Port Huron, Michigan on Monday, February 28, 2011. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department. [REDACTED] observed the proceedings.

ISSUE

Whether the Department properly calculated the Claimant's Food Assistance ("FAP") benefit allotment?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant is a FAP recipient.
2. The Claimant receives \$306/month in cash assistance ("FIP") benefits.
3. The Claimant receives \$674.00/month in Social Security benefits plus a \$14.00/month quarterly State supplement. (Exhibit 1, pp. 7 – 9)
4. The Claimant receives \$250.00/month in child support benefits. (Exhibit 1, pp. 10, 11)
5. The Claimant's monthly shelter obligation is \$458.00. (Exhibit 1, p. 17)

6. The Claimant is responsible for utilities. (Exhibit 1, p. 17)
7. The Department calculated the Claimant's monthly FAP allotment as \$184.00.
8. The Claimant received the full FAP allotment for December 2010.
9. The Claimant received \$84.00 FAP allotment for January and did not receive any FAP benefit for February 2011.
10. During the hearing, the Department agreed to manually supplement the Claimant for benefits she did not receive.

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 Bridges Reference Manual ("BRM").

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 The amount of income counted may be more than the amount a person actually receives because it is the amount before any deductions including deductions for taxes and garnishments. BEM 500 Shelter expense is an allowable FAP expense. BEM 554 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. BEM 554 In determining a FAP allotment, a Heat and Utility Standard is used whenever a FAP group contributes to the heat expense separate from rent, mortgage, or condominium/maintenance payments. BEM 554

In this case, the Claimant agreed with the income and expense figures used in calculating the monthly FAP allotment. That being stated, the FAP benefits for January 2011 were short and the Claimant did not receive any benefits for the month of February. As a result of the foregoing, the Department agreed to supplement the Claimant for lost benefits that she was otherwise entitled to receive. Ultimately, it is found that the Department's monthly FAP benefit amount is correct however the failure in supplement the Claimant for the benefits is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds the Department's failure to supplement the Claimant for her FAP benefits is not upheld.

Accordingly, it is ORDERED:

1. The Department's FAP calculation is AFFIRMED.
2. The Department's failure to supplement the Claimant for the FAP benefits is not upheld.
3. The Department shall supplement the Claimant for lost FAP benefits that she was otherwise eligible and qualified to receive in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 3/3/2011

Date Mailed: 3/3/2011

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

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cc:



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