

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 201122478
Issue No.: 3002; 2000
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: March 30, 2011
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 March 30, 2011. The Claimant was present and testified. The Department of Human Services (Department) was represented by [REDACTED]

ISSUE

Was the Department correct in its calculation of Claimant's Food Assistance Program (FAP) grant?

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 FAP recipient in a household of four persons.
2. Claimant received child support.
3. Claimant has an obligation for shelter, utilities and heat.
4. The Department determined that claimant is entitled to \$609.00 in FAP benefits per month.
5. Claimant requested a hearing contesting the amount of the FAP grant.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) 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 administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in BAM, BEM and PRM, which includes the Reference Tables (RFT.).

BEM 505 instructs that child support income is used in budgeting FAP benefits:

- Use the average of child support payments received in the **past three calendar months**, unless changes are expected. Include the current month if all payments expected for the month have been received. Do **not** include amounts that are unusual and not expected to continue.

Note: The three month period used can begin up to three months before the interview date or the date the information was requested.

If payments for the past three months vary, discuss the payment pattern from the past with the client. Clarify whether the pattern is expected to continue, or if there are known changes. If the irregular pattern is expected to continue, then use the average of these three months. If there are known changes that will affect the amount of the payments for the future, then do **not** use the past three months to project. **Document the discussion with the client and how you decided on the amount to budget.**

BEM 505, p. 3

In the present case, the Department determined that Claimant received child support in the amount of \$806.00 per month. However, neither the Bridges Child Support search (Exhibit 3), nor the Michigan Child Support Enforcement System CP Financial Detail Report (Exhibit 4) support this figure. At the hearing, the Department enumerated figures that did not total \$806.00. The Department was not able to otherwise support the figure of \$806.00 in child support per month. I am not convinced that the Department was correct in its calculation of the FAP grant, as the child support figure used was not substantiated.

It is noted that Claimant wrote. "I am also hoping that the Medicaid becomes Retroactive because there are bills from the month of February." However, Claimant did not pursue the Medicaid issue at the hearing, and it appears that no negative action was taken with respect to Medicaid. The regulations governing hearings and appeals

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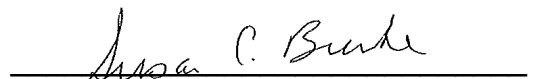
for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code. MAC R 400.901-.951. MAC R 400.903 reads, in part:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department of Human Services [department] action resulting in suspension, reduction, discontinuance, or termination of assistance.

In the present case, the Department had not taken a negative action with respect to Claimant's Medicaid case at the time of the hearing request.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was not correct in its calculation of Claimant's FAP grant, and it is therefore ORDERED that the Department recalculate Claimant's FAP grant, effective March 1, 2011, based on actual income. It is further ORDERED that any missed or increased benefits shall be made in the form of a supplement. It is further ORDERED that Claimant's request for hearing regarding Medicaid is DISMISSED pursuant to MAC R 400.903.



Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: April 13, 2011

Date Mailed: April 13, 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.

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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.

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