

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.: 20112564
Issue No.: 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 17, 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 November 17, 2010. The Claimant appeared and testified. [REDACTED], ES appeared on behalf of the Department.

ISSUE

Was the Department correct in determining Claimant's 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 and MA benefits.
- (2) Claimant's FAP case closed in error in September 2010.
- (3) The parties agreed that FAP benefits for September 2010 should be paid to Claimant in the form of a supplement.
- (4) Claimant's husband receives unemployment benefits in the amount of \$309 per week.
- (5) Claimant requested a hearing on September 8, 2010 contesting the determination of FAP and MA 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"), 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").


Department policy dictates how to treat unemployment compensation reduced by earnings--Exception: Sometimes benefits are reduced because the individual has earnings. In such cases, the reduced amount is the gross amount. BEM 503 p.25.

In the present case, the parties reached an agreement regarding Claimant's FAP benefit for September 2010. The parties agreed that Claimant was entitled to benefits for September 2010 and benefits would be paid in the form of a supplement.

The only issue in dispute is the correct amount of unemployment compensation received by the Claimant's husband. Pursuant to policy, the reduced amount received by Claimant's husband is the gross amount. BEM 503. This Administrative Law Judge finds that \$309 weekly is the correct amount budgeted for Claimant's husband's unemployment compensation. Therefore the Department's determination of FAP benefits is incorrect.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly calculated 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 benefits shall be rebudgeted going back to September 2010 using \$309 weekly income from Claimant's husband's unemployment compensation. It is further ordered, pursuant to the agreement of the parties that FAP benefits for September 2010 shall be issued in the form of a supplement.



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

20112564/AM

Date Signed: December 2, 2010

Date Mailed: December 2, 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.

AM/hw

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