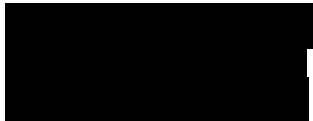


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

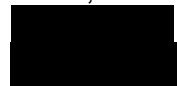
IN THE MATTER OF:



Reg. No: 201125963

Issue No: 3002; 3003

Case No:



Load No:

Hearing Date:

May 25, 2011

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on May 25, 2011.

ISSUE

Was the claimant's FAP allotment computed and allocated correctly?

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 a FAP recipient in Wayne County.
- (2) Claimant's FAP benefits have fluctuated wildly over the course of several months.
- (3) Claimant receives roughly \$158 per week in UCB benefits, and \$370 per month in child support.
- (4) Claimant has no other income.

- (5) Claimant's income did not change over the course of the months of January through March 2011.
- (6) Claimant did not receive UCB benefits for one week of March 2011.
- (7) Claimant's income was incorrectly calculated for each of those three months.
- (8) Claimant filed for hearing on March 17, 2011, alleging that DHS incorrectly computed her FAP budget.
- (9) A hearing was held before the Administrative Law Judge on May 25, 2011.

CONCLUSIONS OF LAW

The Food Assistance Program (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 of Human Services (DHS or Department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM, Item 500. A standard deduction from income of \$132 is allowed for certain households. Certain non-reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been

allowed, up to a maximum of \$459 for non-senior/disabled/veteran households. BEM, Items 500 and 554; RFT 255; 7 CFR 273.2. Only heat, electricity, sewer, trash and telephone are allowed deductions. BEM 554. Any other expenses are considered non-critical, and thus, not allowed to be deducted from gross income. Furthermore, RFT 255 states exactly how much is allowed to be claimed for each deduction.

In this case, the Administrative Law Judge has reviewed the FAP budget, and finds that the Department incorrectly computed the claimant's total income. In each of the three months reviewed, the undersigned is unable to reconcile the Department's income figures with claimant's income. For the month of January 2011, claimant's prospected income would have been \$1049; claimant's actual income for that month \$1160; claimant's budgetable income, according the Department's unearned income summary, was \$1193. The Department used a gross income amount of \$1497. The undersigned is unable to determine where the Department came up with that particular number. Therefore, as this income amount is incorrect, the budget used is incorrect, and must be recalculated.

Similar errors were found in the budget for February 2011—the undersigned was unable to reconcile the income amount of \$909 with any of claimant's budgetable income source numbers.

Finally, in March 2011, the evidence of record shows that claimant did not receive UCB for the week ending March 5, 2011; however, this income was still used in calculating claimant's FAP budget. Given the other errors in the claimant's case, and given that the claimant has reported all changes, the March 2011 budget should be recalculated using claimant's actual income.


Furthermore, claimant requested her hearing on March 17, 2011. Claimant is allowed to request a review of FAP budgets 90 days prior to the hearing request. While the undersigned has not reviewed the December 2010 budget, given the number of errors in claimant's case, December's budget, which falls within the 90 day time limit, should be recalculated as well.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's budget calculations for claimant's FAP case were incorrect.

Accordingly, the Department's decision is REVERSED.

The Department is ORDERED to re-calculate claimant's FAP budgets of December 2010; January 2011; February 2011; and March 2011, according to the proper policies found in the Bridges Administrative and Eligibility Manuals. The Department is FURTHER ORDERED to issue any supplemental benefits to which the claimant is otherwise entitled.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 06/03/11

Date Mailed: 06/07/11

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.

RJC/dj

cc:

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