

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

IN THE MATTER OF: Reg.



No.: 2011-26679
Issue No.: 3002, 3003
Case No.: [REDACTED]
Hearing Date: July 25, 2011
DHS County: Wayne (35)

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 July 25, 2011 at the Department of Human Services office in Wayne County Michigan, District 35.

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 an FAP recipient in Wayne County.
- (2) Claimant received FAP benefits in the amount of \$289 for the months of January, February, March, and April, 2011.
- (3) Claimant was not classified as an SDV group during budget calculations.
- (4) Claimant filed for hearing on March 28, 2011, alleging that DHS incorrectly computed his FAP budget.
- (5) A hearing was held before the Administrative Law Judge on July 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 budget. Claimant receives RSDI income and is considered disabled; claimant is therefore eligible to be considered an SDV group. BEM 550. The budgets as presented show that claimant's budgets were not calculated under SDV status; therefore, the Department must recalculate claimant's benefits under the SDV classification.

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.

1. The Department is ORDERED to re-calculate claimant's FAP budgets retroactive to January, 2011 and classify claimant's FAP group as an SDV group, according to the proper policies found in the Bridges Administrative and Eligibility Manuals.

2. 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: August 2, 2011

Date Mailed: August 2, 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.

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/cl

cc:

