

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.: 20112945
Issue No.: 3015
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 22, 2010
Oakland 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 22, 2010. The Claimant appeared and testified. [REDACTED], ES and [REDACTED] 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 applied for FAP benefits September 17, 2010.
- (2) Claimant receives social security benefits of \$1737 per month.
- (3) Claimant receives pension income of \$313 per month.
- (4) Claimant has shelter expense of \$1354.
- (5) Claimant has medical expense of \$173 per month.
- (6) Claimant's FAP application was denied on September 28, 2010 due to excess income.

- (7) Claimant requested a hearing on September 23, 2010 contesting the denial of FAP 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").

The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. PEM 550. Under 7 CFR 273.9, as amended, \$141.00 is deducted from the gross income of FAP recipients in determining FAP grants.


Claimant has \$2050 unearned income from social security and pension benefits. The standard deduction of \$141 and medical expenses of \$173 were taken from the gross income of \$1994 resulting in adjusted income of \$1736. Claimant has shelter expenses of \$1354 and does qualify for an excess shelter deduction of \$372. \$1354 shelter expense exceeds 50% of adjusted gross income \$868 by \$486. ($1354 - 868 = 486$). Therefore, Claimant has \$1250 net income. ($1736 - 486 = 1250$). The Food Assistant Issuance Table shows \$16 in benefit for \$1250 net income for a household of 1. RFT 260. This is not the amount determined by the Department therefore their determination is incorrect.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was incorrect in the determination of FAP benefits, and it is ORDERED that the Department's decision in this regard be, and is, hereby REVERSED. Claimant's FAP shall be reinstated as of the date of application and Claimant shall be paid \$16 per month in FAP benefits. Any missed benefits shall be

20112945/AM

paid to Claimant in the form of a supplement.



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

Date Signed: December 3, 2010

Date Mailed: December 3, 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.

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