

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.: 2011-30578
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: May 25, 2011
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Susan 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 May 25, 2011. The Claimant was present and testified. The Department of Human Services (Department) was represented by [REDACTED], ES.

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.
2. The Department re-determined Claimant's FAP grant, effective [REDACTED] and ongoing, due to a change in income, but failed to request information regarding Claimant's shelter expense.
3. Claimant has an obligation for shelter, utilities and heat.
4. 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.).

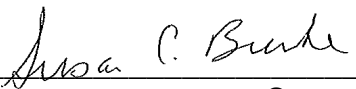
The federal regulations define household income to include SSI and RSDI benefits, as well as earned income. 7 CFR 273.9(b). Only 80% of earned income is counted in determining FAP benefits. BEM 550. Under 7 CFR 273.9, as amended, and RFT 255, \$152.00 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9, deductions for excess shelter are also made. BEM 554.

BEM 105, p. 1 states in part, "The local office must protect client rights."

In the present case, the Department failed to request verification of Claimant's expenses when it re-determined Claimant's FAP grant based on new income, effective [REDACTED] and ongoing. Claimant testified credibly that she has been paying shelter expense since [REDACTED]. Without the shelter expense being input into the system, the Department's decision with regard to the amount of FAP grant was not correct.

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's decision is REVERSED. It is further ORDERED that the Department shall re-determine Claimant's FAP grant, effective [REDACTED], and ongoing, based on Claimant's actual income and expenses. It is further ORDERED that any missed or increased payments shall be made in the form of a supplement.



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

Date Signed: 6/1/11

Date Mailed: 6/1/11

2011-30578/SB

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.

SB/sm

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