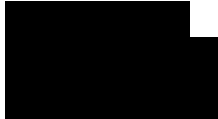


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE CLAIM OF:



ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 1, 2010. The claimant appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly determine that claimant was eligible for [REDACTED] per month in Food Assistance Program benefits?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds a material fact:

- (1) Claimant filed an application for Food Assistance Program benefits on August 23, 2010.
- (2) The Food Assistance Program benefit application was processed on August 30, 2010.
- (3) August benefits were prorated and it was determined that claimant was to receive [REDACTED] per month in Food Assistance Program benefits.

- (4) On August 30, 2010, the department caseworker notified claimant that he was to receive [REDACTED] per month in Food Assistance Program benefits.
- (5) On September 15, 2010, claimant filed a request for a hearing to contest the amount of Food Assistance Program benefits stating that he is entitled to more Food Assistance Program benefits.

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

For purposes of Food Assistance Program benefits, the department caseworker is charged with counting all of claimant's countable income. The group composition and program budgeting items specify whose income to count. The program budgeting items might also contain program specific income deductions and disregards. Income means benefits or payments measured in money. It includes money a person owes even if not paid directly such stock dividends automatically reinvested as income paid to a representative. The amount of income counted may be more than the amount a person actually receives because it is the amount before any deductions are taken, including deductions for taxes and garnishments. The amount before any deductions are taken is called the gross amount. BEM, Item 500, p. 1. Income remaining after applying the policy in this item is countable. Count all income that is not specifically excluded. BEM, Item 500, p. 1.

In instant case, the Food Assistance Program budget counted claimant's gross unearned income in the amount of [REDACTED]. The department caseworker gave claimant a standard deduction of [REDACTED] for an adjusted gross income of [REDACTED]. The department gave claimant a maximum benefit amount of [REDACTED] plus the economic recovery amount in the amount of [REDACTED] minus the [REDACTED] net income, which indicated that claimant was to receive [REDACTED] per month in a monthly benefit amount. Claimant had 9 prorated days and the prorated benefit amount was [REDACTED]. Claimant was to receive [REDACTED] in monthly Food Assistance Program benefits based upon the information that the department received at the time.

Claimant argued on the record that he does pay child support and his child support obligation should have been included in his Food Assistance Program benefit eligibility determination. Claimant did concede on the record that he did not provide the department with proof of his child support obligation. This Administrative Law Judge finds that claimant does have a child support obligation. Therefore, the department should determine whether or not claimant's child support obligation will allow claimant to receive more in Food Assistance Program benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant has established that he does have a child support obligation.

Accordingly, the department's decision is REVERSED. The department is ORDERED to reinstate claimant's Food Assistance Program benefits and to complete a new budget which includes claimant's child support obligation and give claimant the appropriate deductions and adjust his Food Assistance Program eligibility amount if he is otherwise eligible for the benefits.

_____/s/_____
Landis Y. Lain
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: ___2/9/11_____

Date Mailed: ___2/9/11_____

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 of the rehearing decision.



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