

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: 20113844
Issue No: 3015; 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 6, 2010
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 telephone hearing was held on December 6, 2010. The claimant personally appeared and provided testimony.

ISSUES

1. Did the department properly determine Claimant's Family Assistance Program (FAP) benefits?
2. Did the department properly determine that Claimant was not eligible for Child Development and Care (CDC) benefits due to excess income?

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 and CDC on September 13, 2010. (ALJ Exhibit 1).
2. The department approved Claimant for a monthly FAP benefit amount of \$16.00.
3. The department denied Claimant CDC benefits due to excess income. (Department Exhibit 1, Department Exhibit 3).
4. Claimant's group size is 2. The monthly net income limit for a group size of 2 is \$1,215.00. (Department Exhibit 2).

5. Claimant submitted a hearing request on October 25, 2010 contesting the denial of his CDC application and the amount of his FAP benefits. (Request for a Hearing).

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 Program Reference Manual (PRM).

The Child Development and Care program is established by Titles IVA, IVE, and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

For FAP and CDC purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505. All income is converted to a standard monthly amount. If the client is paid weekly, the department multiplies the average weekly amount by 4.3. If the client is paid every other week, the department multiplies the average bi-weekly amount by 2.15. BEM 505.

In this case, the department was unable to provide credible evidence on how they determined the earned income for Claimant's FAP and CDC budgets. Claimant was receiving weekly earned income at the time relevant to this matter.

The department testified that they used four weekly pay stubs from September 5, September 12, September 19, and September 26 of 2010 to determine the earned income of \$885.00 for the FAP budget. However, the department only submitted two paystubs and claimed that "because of the nature of the Bridges system we had to enter check dates 7 days apart to get Bridges to properly calculate budgets. Checks 9/5/10 and 9/26/10 are estimates." This contradicts what the department testified to on the record.

During the hearing, the Administrative Law Judge asked the department why the earned income amounts were different in the FAP and CDC budgets. The department used the figure of \$885.00 in the FAP budget and \$1,327.00 for the CDC budget. The department did not know and could not explain why the earned income was not the same in each budget, despite using the same four paystubs.

Thus, the Administrative Law Judge finds that the department failed to establish that Claimant was only eligible for \$16.00 of FAP monthly benefits and not eligible for CDC benefits due to excess income.

DECISION AND ORDER

Accordingly, the department's actions are **REVERSED**. The department shall:

1. Redetermine Claimant's FAP and CDC benefit amount in accordance with the applicable department policy.
2. Issue Claimant written notice informing him of the new eligibility determinations.

SO ORDERED.

/s/

Vicki Armstrong
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 9, 2010

Date Mailed: December 9, 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.

20113844/VLA

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.

VLA [REDACTED]

cc: [REDACTED]