

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 4287
Issue No: 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 2, 2010
Oakland County DHS (2)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 conducted on December 2, 2010 from Detroit, Michigan. The Claimant, [REDACTED] and her husband, [REDACTED] were present and testified. Tom Jones, Assistant Payment Supervisor and April Ewing, ES appeared on behalf of the Department.

ISSUE

Whether the Department of Human Services (DHS) properly computed the Claimant's Food Assistance Benefits(FAP) after a redetermination in March 2010 for ("FAP") benefits beginning with benefit month April 2010.

FINDINGS OF FACT

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

1. The Claimant is an ongoing FAP recipient and requested a hearing regarding the Department's computation of the FAP budget dated April 1, 2010 computed after a redetermination was submitted by the Claimant in March 2010. Exhibit 1 and Exhibit 2
2. The Claimant provided documents, at the hearing, which established the following: The Claimant's housing expenses are \$408 for mortgage, insurance, and taxes. The Claimant also pays the heat.
3. The Claimant's current ongoing monthly medical expenses are \$239.79. Claimant Exhibit 2

4. The Claimant receives \$1502.50 in RSDI income. The Claimant's spouse currently has self employment income of \$260 per month.
5. At the time of the redetermination in April 2010, the Department determined that the Claimant's spouse's self employment income was \$130 per month. As the basis for this determination, the Department provided the following documents: Self Employment Pay Details, Exhibit 5 and Self Employment Budget, Exhibit 6.
6. The Self Employment Pay Details indicates that the Department scheduled \$60 irregular pay bi-weekly, Exhibit 5. The Self Employment Budget summary determined the monthly self employment budget amount to be \$130, Exhibits 5 and 6.
7. The documents provided, Exhibits 5 and 6, do not provide a basis for the determination by the Department of monthly self employment income of \$130. Exhibit 6
8. The Claimant is disabled and receives RSDI. The group is an SDV group.
9. The Claimant submitted a one page home improvement loan for improvements done on their house which was claimed to be a home equity loan. The document submitted was not a home equity loan secured by the equity of the Claimant's home but is an unsecured personal loan. The Department correctly excluded the home improvement loan as a housing expense when calculating the April 1, 2010 FAP budget. Claimant Exhibit 1
10. At the hearing, the Department acknowledged certain errors in computing the Claimant's FAP budget dated April 1, 2010, including overstating the medical expenses to be \$510 which was incorrect, failing to include any earned income from self employment earned income earned by the Claimant's spouse, and agreed the April 1, 2010 budget was in error. Exhibit 1 and Exhibit 2.
11. At the hearing, the Department reran the Claimant's FAP budget and determined that the Claimant's benefit amount should be \$18 per month. Exhibit 3 (Re run Budget)
12. As a result of recalculation of the Claimant's FAP budget, the Department determined that the Claimant is now eligible for Food Assistance in the amount of \$18 per month. Exhibit 3. This budget utilized the correct unearned income and self employment income of \$130 per month. This budget did not include any medical expense deduction, and the basis for the self employment income is not supported by the documentation provided by the Department and thus is in error. Exhibit 3
13. The Claimant's spouse's self employment income beginning November 2010 is \$260 as reported by the Claimant's spouse at the hearing. Exhibit 5

14. The Claimant is a SDV group. The FAP group consists of 2 members.
15. The Claimant filed a hearing request on August 5, 2010 protesting the computation of the Food Assistance benefits. Claimant Exhibit 3 and 1.

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"), formally 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 Reference Table Manuals ("RFT").

DHS processed a FAP budget for Claimant, beginning 4/1/2010, based upon the redetermination information. Claimant confirmed the unearned income information used by DHS in calculating the FAP budget. The unearned income, received from RSDI is \$1502. Claimant is disputing the inclusion of \$510 in medical expenses and the failure to include \$400 for a loan claimed to be a home equity loan when computing the Claimant's shelter expenses. The Department also did not include any self employment income for the Claimant's spouse in the budget. As the Department admitted the budget contained errors, it requires a recalculation of benefits. BAM 556 directs how FAP benefits are calculated.

Claimant submitted a breakdown of the Claimant's ongoing medical expense information, with its hearing request, which totals \$239 monthly. The Department could not explain where it got the \$510 per month medical expense figure used in calculating the April 2010 FAP budget. The Department also did not include any self employment income for the Claimant's spouse.

The Budget that was calculated by the Department on April 1, 2010 was incorrect. The budget computed by the Department during the hearing on December 2, 2010 also appears to be incorrect, in part. Exhibit 3

The budget calculated at the hearing (Exhibit 3) correctly calculated the gross unearned income in the amount of \$1502. The Budget used a self employment income of \$130, which cannot be supported by the documents submitted by the Department at the hearing, including the Self Employment budget and the Self Employment Pay details, which indicates \$60 bi-weekly. As it is unclear how this number was determined and it appears to not be supported by the documents submitted, the Department must use the income provided by the Claimant with the redetermination information in April 2010 or seek further verification from the Claimant. As the income figure is unsubstantiated, a final FAP benefit amount cannot be determined, and the \$18 month FAP benefit determined by the Department, based on the recalculated FAP budget for the period beginning April 1, 2010, therefore must be determined to be incorrect.

Going forward for January 2011, the gross income figure will change again and a new FAP budget must be completed. The gross income must be increased because the Claimant's self employment income is estimated to be \$260 per month, a figure the claimant's spouse testified to and confirmed at the hearing.

The net income amount of \$1161, as calculated by the Department in the recalculated budget, is incorrect as no medical expense deduction was made when determining the final net income. BEM 554 page 8. Based upon the failure to deduct medical expenses, the budget must also be recalculated to include medical expenses and the monthly FAP benefit amount re-determined.

The Department properly calculated the Claimant's shelter expenses in the recalculated budget. However, the Claimant's final excess shelter deduction of \$277 is not correct. Exhibit 4.

The Claimant was credited for mortgage, taxes, and insurance for a total of \$407.97 and the Claimant was granted a \$588 heat and utility standard. These figures are correct. However, the Claimant's total shelter expenses are incorrect because the final excess shelter amount as calculated used an incorrect adjusted gross income because the self employment income used by the Department to determine gross income was not supported by the Department. BEM 554

The excess shelter amount is the difference between Claimant's housing costs (\$996) and half of Claimant's adjusted gross income. Because the adjusted gross income amount is incorrect or unsupported, this aspect of the excess shelter determination must be recalculated when the correct gross income amount is determined.

A review of the document submitted by the Claimant at the hearing, as evidence of a home equity loan, was reviewed and it was determined that the loan is not a home equity loan, but instead is a personal loan by the Claimant's mother for home improvements. The Department correctly concluded that the loan is not a home equity loan and properly excluded the \$400 loan expense when computing the shelter expenses. BEM 554.

In conclusion, it is determined that the Department did not correctly calculate the original April 1, 2010 budget and also did not correctly calculate the recalculated April 1, 2010 budget it presented at the hearing. Based on a review of the record, it is determined that the budget must be recalculated to include the correct medical expense figure as contained in paragraph 3 of the Findings of Fact. The correct self employment income must be utilized when determining earned income and the total gross income. Once the budget is corrected, the correct benefits amount must be applied retroactively to determine the FAP benefits the Claimant was entitled to receive retroactive to April 1, 2010.

Going forward, the Department must change the Claimant's FAP budget to include the self employment income of \$260 per month for the period beginning January 1, 2011, unless a change is reported by the Claimant's spouse.

The Department correctly determined that the Claimant was not entitled to include a \$400 per month shelter expense for home improvement loan as it is not a home equity loan.

Based upon the foregoing analysis, it is found that the Department did not properly calculate the Claimant's FAP budget and must recalculate the FAP budget retroactive to April 1, 2010.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS did not properly calculate Claimant's FAP beginning 4/1/10. Accordingly, the Department's determination of the correct FAP benefit reduction amount is REVERSED.

Accordingly, it is ORDERED:

1. The Department shall re-compute the Claimant's FAP budget for FAP benefits retroactive to April 1, 2010 and shall include a deduction for the medical expenses documented by the Claimant as ongoing medical expenses in the amount of \$239.79 when calculating the Claimant's FAP benefits.
2. The Department shall also include the correct self employment income amount to be used as earned income. In making this determination, the Department may utilize the information provided by the Claimant in its April 2010 redetermination, or if the information is unclear, or not provided, the Department shall seek further clarification and verification of the correct amount of self employment income from the Claimant for that period.
3. The Department shall also, accordingly, adjust the Claimant's FAP benefits based on the recalculated budget, retroactive to April 1, 2010.
4. The Department shall also recalculate a new FAP budget for the period, beginning January 1, 2011, to include a change in self employment income to \$260 a month.


Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/20/10

Date Mailed: 12/20/10

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.

LMF/dj

cc:

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