

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.: 20117006
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: January 13, 2011
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 January 13, 2011. The Claimant appeared and testified.

[REDACTED], FIM and [REDACTED], Assistance Payments Worker, appeared on behalf of the Department. [REDACTED] served as translator.

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 was an ongoing recipient of FAP benefits.
- (2) Claimant received \$186 in FAP benefits in November 2010.
- (3) Claimant had \$1168 employment income in September 2010.

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- (4) Claimant has shelter expense of \$588.
- (5) Claimant requested a hearing on October 28, 2010 contesting the determination of FAP benefits.
- (6) Claimant abandoned her appeal with regard to FIP benefits.
- (7) Claimant reported a change in income on November 5, 2010 that was processed, and Claimant received \$367 in FAP for December 2010.
- (8) Claimant only disputed the determination of FAP benefits for November 2010 at hearing.

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”).

Use past income to prospect income for the future unless changes are expected: • Use income from the **past 30 days** if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505.

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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. BEM 550. Under 7 CFR 273.9, as amended, \$141.00 is deducted from the gross income of FAP recipients in determining FAP grants.

In the present case, according to the aforementioned policy on budgeting, Claimant has \$1168 earned employment income. Subtracting \$141 from \$1491 results with \$793 adjusted gross income. Claimant qualified for an excess shelter deduction of \$192 as her shelter expenses \$588 was in excess of \$396 (50 percent of \$793, income after prior deductions were made.) by \$192. Subtracting \$192 from \$793 results with \$601 net income. A household of 2 with a net monthly income of \$601 is entitled to a monthly FAP grant of \$186 per month. RFT 260. Therefore the Department's determination of benefits is correct.

Claimant argued at hearing that the income the Department used to calculate was incorrect because it was for a period of time when she was working extra to compensate for time when she was not working. The Department used an average of Claimant's employment income for the 30 days prior to the determination, consistent with Department policy. BEM 505.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly calculated the Claimant's FAP benefits, and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.



Aaron McClintic
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: February 4, 2011

Date Mailed: February 4, 2011

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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