

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2009-26933
Issue No: 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 23, 2009
Allegan County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 hearing was held on July 23, 2009. Claimant appeared and testified. The Department caseworker was not present at the hearing.

ISSUE

Did the Department of Human Services properly close Claimant's Food Assistance Program (FAP) case 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 was an ongoing recipient of Food Assistance Program (FAP) benefits under the Simplified Reporting Program. Claimant's benefit group consisted of herself, her husband, and their two children.

- (2) On February 3, 2009, a Semi-Annual Contact Report (DHS-1046) was sent to Claimant because her Food Assistance Program (FAP) case was due for a Semi-Annual Contact review by March 31, 2009.
- (3) On February 10, 2009, the Department received the Semi-Annual Contact Report (DHS-1046) from Claimant. The form indicated that Claimant's husband had income from two sources: [REDACTED]. Claimant also submitted her husband's pay stubs from [REDACTED] for the period covering 12/01/08 – 1/11/09.
- (4) On March 19, 2009, Claimant sent in some additional pay stubs from her husband's work at [REDACTED]. Claimant also sent in a 2008 Income Statement from [REDACTED].
- (5) On March 20, 2009, Claimant sent in a listing of all her husband's pay from [REDACTED] for the period 1/6/09 – 2/24/09. Claimant also sent in [REDACTED] Income Statement and Balance Sheet for 2009.
- (6) On April 11, 2009, Claimant sent in an explanation of [REDACTED] Inc as a company owned by her husband. Claimant also explained that [REDACTED] set was not making much money so her husband was putting all the money into the company and only pays himself when he does not get much from [REDACTED]. Claimant also sent in more check stubs from [REDACTED]. The Department caseworker sent Claimant Verification of Employment (DHS Form 38) for both [REDACTED] and [REDACTED] Inc.
- (7) On April 20, 2009, Claimant sent in the Verification of Employment (DHS Form 38) for both [REDACTED] and [REDACTED]. Claimant also sent in an updated Income Statement from [REDACTED].

- (8) On May 12, 2009, Claimant was sent a Verification Checklist (DHS Form 3503) requesting complete tax returns for [REDACTED] for tax year 2008.
- (9) On May 17, 2009, the Department received the requested tax forms.
- (10) On May 21, 2009, the Department caseworker ran a financial eligibility budget for Claimant's Food Assistance Program (FAP) case. The budget indicated that Claimant was not eligible for Food Assistance Program (FAP) benefits due to excess income.
- (11) On May 28, 2009, Claimant was sent a Benefit Notice Form (DHS-176) indicating her Food Assistance Program (FAP) benefits ended 3/31/09 due to excess income.
- (12) On June 8, 2009, Claimant submitted a request for 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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department policy provides the following guidance for caseworkers. The Department's policies are available on the internet through the Department's website.

BAM 200 FOOD ASSISTANCE SIMPLIFIED REPORTING

DEPARTMENT POLICY

Food Assistance groups with countable earnings, as currently defined in BEM 500, are assigned to the Simplified Reporting (SR) category. This reporting option increases FAP participation by employed households and provides workload relief.

REQUIREMENTS

Simplified Reporting groups are required to report only when the group's actual gross monthly income (**not** converted) exceeds the SR income limit for their group size. **No** other change reporting is required.

If the group has an increase in income, the group must determine their total gross income at the end of that month. If the total gross income exceeds the group's SR income limit, the group must report this change to their specialist by the 10th day of the following month, or the next business day if the 10th day falls on a weekend or holiday. Once assigned to SR, the group remains in SR throughout the current benefit period unless they report changes at their semi-annual contact or re-determination that make them ineligible for SR.

DETERMINING THE INCOME LIMIT

The income limit is 130% of the poverty level based on group size. To determine the group's SR income limit, all eligible members of the FAP group are counted. See RFT 250.

BEM 500 INCOME

DEPARTMENT POLICY

All Programs

The group composition and program budgeting items specify whose income to count. The program budgeting items also contain programspecific income deductions and disregards.

Income means benefits or payments received by an individual which is measured in money. It includes money an individual owns even if **NOT** paid directly such as income paid to a representative.

Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means all income that is **NOT** earned income. The item specifies whether the income is earned or unearned.

The amount of income counted may be more than the amount a person actually receives because it is the amount before any

deductions including deductions for taxes and garnishments. The amount before any deductions is called the **gross** amount.

Exception: The amount of self-employment income before any deductions is called **total proceeds**. The **gross** amount of self-employment income means the amount after deducting allowable expenses from total proceeds, but before any other deductions.

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Income remaining after applying the policy in this item is called **countable**. Count all income that is NOT specifically excluded.

EMPLOYMENT INCOME

All Programs

Self-Employment

A person who runs his own business is self-employed. This includes selling goods, farming, direct services (e.g., child care or personal care services), and operating a facility that provides services (e.g., adult foster care home, room and board). A person who provides child care in his/her home is self-employed.

Rental income is also considered self-employment for income budgeting purposes. See “RENTAL INCOME” in this item for determining countable income and allowable expenses for rental income. Self-Employed or an Employee? It can be difficult to determine if someone is self-employed or is an employee of someone else. The guidelines below are provided to help you decide. These are usually indicators that someone is selfemployed:

- The person sets his/her own hours.
- The person provides his/her own tools used on the job.
- The person is responsible for the service being provided and for the methods used to provide the service.
- The person collects payment for the services provided from the person paying for it.

Countable Self-Employment Income

Countable income from self-employment equals the total proceeds **minus** allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income **except** for Farm Loss amounts. See “Farming Expenses” below.

Allowable expenses are the **higher** of:

- 25% of the total proceeds, **or**
- Actual expenses if the client chooses to claim and verify the expenses.

Allowable Self-Employment Expenses

Allowable expenses include: (also see “Room and Board”):

- Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.
- Interest and principal on loans for equipment, real estate or income-producing property.
- Insurance premiums on loans for equipment, real estate and other income-producing property.
- Taxes paid on income-producing property.
- Transportation costs while on the job (example: fuel).
- Purchase of capital equipment.
- A child care provider’s cost of meals for children. Do NOT allow costs for the provider’s own children.
- Any other identifiable expense of producing self-employment income **except** those listed below.

Do NOT deduct the following from self-employment income:

- Depreciation on equipment, real estate or other capital investments.
- A net loss from a previous period.
- Federal, state and local income taxes.
- Personal entertainment or other personal business expenses.
- Money set aside for retirement.

In this case, Claimant raised two specific issues. First, whether Claimant’s Food Assistance Program (FAP) case should close due to excess income. Second, whether Claimant’s Food Assistance Program (FAP) case should close as of March 31, 2009.

Claimant provided all income information that was requested and required by the Department. The Department has entered three pages of Bridges program pages (56, 57, 58) as evidence of the excess income determination.

Page 58 is an employment budget for Claimant’s husband. It lists the employer as

██████████. It lists the following budget amounts: 12/08 - \$1246.14; 1/09 - \$1044.59; 2/09 -

\$1400.59; 3/09 – 1306.38; 4/09 - \$782.00; 5/09 - \$2548.40; and 6/09 - \$2548.40. Within the entire evidentiary record, the latest income information from [REDACTED] is for the week of 3/30/09-4/5/09. There is no apparent math which indicates the incomes for April, May, and June shown on this page.

Page 57 is a FAP Gross Income Test. It lists the benefit period as 6/1/09-6/30/09. The page lists: self-employment income eligible for earned income deduction of \$2250; net self-employment income of \$2250; earned income eligible for earned income deduction of \$2548; net earned income of \$2548; and countable income of \$4798. After reviewing the financial evidence from [REDACTED] there is no apparent math that results in a monthly income of \$2250. Based on the income evidence from [REDACTED], there is no apparent math that indicates an income of \$2548 for June 2009.

Page 56 is a FAP Gross Income Test for benefit period 4/1/09-4/30/09. The page lists: self-employment income ineligible for earned income deduction of \$2250; net self-employment income of \$2250; earned income eligible for earned income deduction of \$782; net earned income of \$782; and countable income of \$3032. After reviewing the financial evidence from [REDACTED] there is no apparent math that results in a monthly income of \$2250.

The Department has the initial burden of showing their action was in accordance with policy. The evidence in this case does not explain the values used in the Department's determination that Claimant is not eligible for Food Assistance Program (FAP) benefits due to excess income. If the Department's action cannot be determined as correct, it cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT properly close Claimant's Food Assistance Program (FAP) case due to excess income.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

/s/

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 14, 2009

Date Mailed: September 16, 2009

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.

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