

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant,

Reg No: 2009-34179

Issue No: 3002

Case No:

██████████

Load No:

Hearing Date:

September 29, 2009

Berrien County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from ██████████ on September 29, 2009.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance Program (FAP) allotment?

FINDINGS OF FACT

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

- (1) Claimant is a FAP recipient.
- (2) On April 29, 2009, the Department mailed Claimant a Notice of Case Action, DHS-1605, informing her that she was entitled to FAP benefits in the amount of ████████/mo. for the period of May 1, 2009 to April 30, 2011. (Exhibit 1)

(3) On June 9, 2009, Claimant contacted the Department to inform it that her son, [REDACTED] moved back into the home. The Department completed a FAP budget to include Claimant's son as a group member and also add his RSDI income which resulted in Claimant's FAP case closing due to excess income. (Exhibit 2)

(4) On July 17, 2009, Claimant contacted the Department to inform it that her Tevin Lewis had moved out of the house on July 7th or 8th. Claimant was informed that she would need to reapply for FAP benefits given that her case had closed.

(5) On August 14, 2009, Claimant re-applied for FAP benefits. The Department completed a budget with the same income and expenses from the April 29th budget which resulted in a monthly FAP allotment of \$80 for August 2009 and [REDACTED]/mo for the period of September 1, 2009 to July 31, 2011. (Exhibit 3)

(6) On August 20, 2009, the Department received the Claimant's hearing request protesting her FAP allotment. (Hearing Request)

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. Departmental policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Manual (BRM).

For FAP purposes, all earned and unearned income available to the Claimant is countable. 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 and includes FIP, RSDI, SSI and UB. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. PEM 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. PEM 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.

PEM 505

In the instant case, Claimant testified that she contacted the Department on June 30th to inquire as to what she needed to do once her son moved out which she expected to happen soon and she was told that there was nothing that she needed to do. The Department testified that it does not have any recollection or records of Claimant calling on June 30th, but she did call on July 17th and was told that she needed to reapply because her case was closed. Claimant did not do so until August 14th and her benefits were restored to the same monthly amount going forward that they were before her case closed.

With the above said, based on the testimony and documentation offered at hearing, I find that the Department established that it acted in accordance with policy in computing Claimant's FAP allotment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in computing Claimant's FAP allotment.

Accordingly, the Department's FAP eligibility determination is AFFIRMED, it is SO ORDERED.

/s/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 30, 2009

Date Mailed: October 1, 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.

SMB/db

cc:

[REDACTED]