

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: 2009-37055

Issue No: 3002

Case No:

Load No:

Hearing Date:

October 22, 2009

Lapeer 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 [REDACTED] on October 22, 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 July 31, 2009, Claimant applied for FAP benefits.
- (3) On September 3, 2009, the Department discovered that the wrong income was used for Claimant for the month of August.

(4) On September 3, 2009, the Department completed a FAP budget using [REDACTED] for Claimant's monthly income instead of [REDACTED] which resulted in a monthly FAP reduction from [REDACTED] (Exhibits 2-5, 7)

(5) On September 3, 2009, the Department mailed Claimant a Notice of Case Action which explained the reduction in Claimant's monthly FAP allotment. (Exhibit 6)

(6) On September 14, 2009, the Department received the Claimant's hearing request protesting the amount of her FAP allotment. (Hearing Request)

(7) At hearing, the Department discovered that Claimant or her representative provided the Department with an August 7, 2009 letter from the [REDACTED] [REDACTED] which stated that Claimant's [REDACTED] would be reduced from [REDACTED] to [REDACTED] until May 2010 due to overpayment (Exhibits 8,9)

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. 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 the instant case, Claimant's [REDACTED] should have been [REDACTED] instead of [REDACTED]. The Department has corrected Claimant's FAP budget to reflect this error. In addition, Claimant reported expenses at hearing that are in the process of being verified. The expenses will be included in the corrected FAP budget, if verified, and the Department will send Claimant a Notice of Case Action reflecting a new monthly FAP benefit amount and the appropriate supplement will be issued, if any.

With the above said, based on the testimony and documentation offered at hearing, I do not find that the Department established that it acted in accordance with policy in computing Claimant's FAP allotment.

2009-37055/smb

SMB/db

cc:

