

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.: 201040803
Issue No.: 3015
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 26, 2010
Wayne County DHS (19)

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 held on July 26, 2010. The Claimant appeared and testified on her own behalf and [REDACTED] appeared as the Claimant's representative. [REDACTED] FIM, [REDACTED], ES, [REDACTED], Pay Accuracy Specialist and [REDACTED], Lead Worker appeared on behalf of the Department.

ISSUE

Was the claimant's Food Assistance Program ("FAP") allotment computed and allocated correctly.

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 applied for FAP benefits on May 4, 2010. Exhibit 1.
2. The Department denied the Claimant's FAP application on May 6, 2010 due to excess income in the FAP group making the group ineligible. Exhibit 2
3. The Claimant's FAP group consists of 4 persons.

4. The Claimant receives unemployment benefits in the amount of \$294 per week for a total unearned income of \$1264. Exhibit 4
5. The Claimant's boyfriend and father of one of the children in the FAP group has a monthly gross earning of \$1714. The check stubs provided to the Department and relied upon by the Department to determine gross earned income are: April 1, 2010, \$369.01; April 9, 2010, \$436.51; April 15, 2010, \$369.51; April 23, 2010, 409.51 and April 30, 2010, \$409.51. Exhibit 3
6. The sum of the five pay checks equals $\$1994.05 \div 5(\text{number of weeks}) = \399 . (average weekly earnings) $\times 4.3 = \$1716$ (monthly earned income) Exhibits 3 and 13.
7. The amount the Claimant received in unemployment benefits was confirmed by the claimant.
8. The Claimant receives unemployment benefits in the amount of \$294 weekly for a bi weekly amount of \$588. The gross monthly unearned income is determined by multiplying \$588 by a factor of 2.15 which equals a gross monthly unearned income of \$1264.
9. The claimant's FAP group's total gross monthly income is determined by adding the earned income, \$1716 plus the unearned income from unemployment \$1264 which sum totals \$2980. This sum exceeds the income limit set for a group of 4 to be eligible.
10. At the time of the application, the Claimant's boyfriend and FAP group member paid child support and had a child support expense of \$749.50.
11. The Claimant pays rent in the amount of \$715 per month. Exhibit 7
12. Currently, the Claimant's boyfriend and FAP group member pays child support for two of his children in the amount of \$346.50. Exhibit 15
13. On May 14, 2010 the child support payment was reduced to \$346.50.
14. The Claimant's group is not categorically eligible, as there is no domestic violence which requires the group be deemed categorically eligible per BEM 213.
15. The budget prepared May 4, 2010 covering the period May 4, 2010 through May 31, 2010 which grants FAP benefits in the amount of \$237 per month is incorrect. The net income results are incorrect as the policy

does not require a net income analysis to be run unless the FAP group's gross monthly income passes the income limit test. In this instance it did not pass the test, and therefore the department's analysis thereafter is unnecessary.

16. The Notice of Case Action dated June 25, 2010 finding the Claimant eligible for FAP was issued in error and is incorrect.
17. The budget prepared in May, 2010 is incorrect because it applies the wrong gross income limit of \$3676 in RFT 250 to determine whether the FAP group's income exceeds the income limit.
18. The FAP income limit established in RFT 250 for a group of 4 persons is \$2389. \$2389 is the monthly income limit which if exceeded causes the group to be ineligible for FAP benefits.
19. The May Budget and the gross income test prepared by the Department are incorrect as it uses the wrong monthly income limit for a group of 4 per RFT 250. Had the correct income limit be used the Claimant's FAP group would have been deemed ineligible.
20. The Claimant requested a hearing on May 14, 2010 protesting the denial of her FAP application.

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM, Item 500

In this case, the Administrative Law Judge has reviewed the FAP budget and the exhibits regarding the earned income received and the unearned income received by the Claimant's FAP group and finds that the Department properly computed the claimant's gross earned and unearned income. All the gross income must be counted and in this case totals \$2980. BEM 500. The amounts on the earnings pay stubs were

verified by the claimant as correct as was the amount of the unemployment benefits she receives weekly \$294, and biweekly \$588. Per RFT 250 the income limit for a FAP group of 4 members is \$2389 and thus the claimant is not eligible for FAP benefits because her gross income exceeds the income limit.

It must be noted that the Department erred when it compared the FAP group's gross income results with the income limit of \$3673 which is the limit for categorically eligible FAP groups and requires that the group be eligible for domestic violence prevention services. BEM213. There is no question that the Claimant's FAP group is not categorically eligible based upon the testimony of the Claimant. Notwithstanding this mistake, the analysis herein, denying the Claimant FAP benefits initially is correct.

The subsequent finding of eligibility based on the later budget is incorrect as the claimant's FAP group still had excess income beyond the income limit and the only reason the Claimant's FAP group qualified is that it passed the gross income test because the Department used the wrong income limit as previously stated.

The Administrative Law Judge must find that the Claimant's group is not eligible for FAP as the group gross income exceeds the monthly income limit. RFT 250. The Administrative Law Judge has reviewed the original determination and gross income test budget and found no significant errors. Claimant and her representative did a very good job explaining the situation and unfortunately they were misled innocently by an advocate and then by department or agency error when the Department found the Claimant was eligible by the second notice of case action of June 25, 2010. Therefore, the undersigned finds that the Department correctly determined the claimant's FAP case should be closed due to ineligibility by Notice of Case Action dated May 6, 2010.

The Administrative Law Judge sympathizes with the Claimant and her family with regard to all the confusion caused with regard to the question of FAP group eligibility but the Department policy must be followed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to deny the Claimant's FAP application was correct.

Accordingly, the Department's decision with regard to the Notice of Case Action dated May 6, 2010 is AFFIRMED.

The Department's decision with regard to the Notice of Case Action Dated June 25, 2010 finding the Claimant eligible for FAP benefits is in error and is REVERSED.



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

Date Signed: 07/27/2010

Date Mailed: 07/27/2010

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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