

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.: 2010 41586
Issue No.: 2013, 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 2, 2010
Wayne County DHS (19)

ADMINISTRATIVE LAW JUDGE: Jeanne VanderHeide

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 August 2, 2010. The Claimant appeared and testified. [REDACTED], FIM and [REDACTED], ES appeared on behalf of the Department.

ISSUE

1. Whether the Department properly denied the Claimant Adult Medical Program ("AMP"), benefits based on excess income effective 6/29/10?
2. Whether the Department properly calculated the Claimant's Food Assistance Program ("FAP") benefits and decreased the FAP award effective 6/29/10?

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 applied for AMP and FAP on 6/14/10.
2. The Claimant reported on her application that she was receiving income from family members on a monthly basis.
3. Claimant testified that the amount of money varies depending on what family members can afford to give her. The money was never clarified as a gift or a

loan and Claimant does not have anything from her relatives stating how it was being given.

4. The Department denied AMP benefits due to current closed enrollment.
5. The Department utilized the lowest monthly amount noted in Claimant's application of \$1080.00.
6. The Claimant testified that she pays \$1041.28 per month in mortgage. Claimant is also responsible for \$174.00 in home owners insurance per month plus utilities.
7. On April 30, 2010, the Department received Claimant's hearing request contesting the FAP decrease and AMP denial.

CONCLUSIONS OF LAW

A. AMP

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115) (a) (1) of the Social Security Act, and is administered by the Department of Human Services (formerly known as the Family Independence Agency) pursuant to MCL 400.10, et seq. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

The Adult Medical Program (AMP) is available to individuals who meet all the eligibility factors. BEM 640. The program group's countable assets cannot exceed the AMP asset limit in BEM 400. Income eligibility exists when the program's net income does not exceed the program group's AMP income limit. BEM 640, p. 3, RFT 236. Countable income is income remaining after applying AMP policy in BEM 500. *Id.* The Department is to use only available income. Available means income which is received or can reasonably be anticipated. For average income received in one month which is intended to cover several months, the Department is instructed to divide the income by the number of months it covers to determine the monthly available income. The average amount is considered available in each of the months. BEM 640, p. 4.

The monthly income limit in April of 2010 for an AMP group of one living independently was \$316.00 per month. BEM 640, RFT 236. In the present case, Claimant receives unearned income over the monthly income limit. Consequently, Claimant is over the income limit for the AMP program. In addition, the AMP program is not currently open for new enrollees. The undersigned finds that the Department has acted in accordance with department policy and law in denying Claimant AMP benefits.

B. FAP

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"), formally 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 Reference Tables ("RFT").

The federal regulations define household income to include all earned and unearned 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, \$144.00 is deducted from the gross income of FAP recipients in determining FAP grants. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 550.

In the present case, the Claimant disputes the use of the income which she is receiving from family members. Claimant did not dispute that she receives monthly income from family members. Claimant also did not dispute the amounts of income that she reported. Finally, Claimant did not provide any evidence that the income was meant to be treated as a loan. Accordingly, the undersigned finds that the Department properly imputed monthly income to the Claimant. The Administrative Law Judge has personally checked the Department's FAP calculations according to the aforementioned policy on budgeting and does not find any error in the Department's FAP budgets.

Claimant noted that he does not have enough money on which to live. The undersigned appreciates that economic times are difficult, but finds that the Department properly calculated benefits. Based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

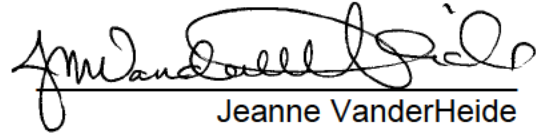
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly denied the Claimant's AMP benefits. Accordingly, the Department's AMP denial is AFFIRMED.

Furthermore, 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 allotment.

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Accordingly, the Department's FAP determination effective 6/29/10 is AFFIRMED.



Jeanne VanderHeide
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/09/2010

Date Mailed: 08/09/2010

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.

JV/CJP

cc:

