

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: 201010679

Issue No: 3002

Case No: ██████████

Load No: ██████████

Hearing Date:

February 9, 2010

Genesee 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 February 9, 2010.

ISSUE

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

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 September 24, 2009, the Department completed a FAP budget which resulted in a monthly FAP allotment of ██████████ based on Claimant's ██████████ income (██████████)

and her son's earned income ([REDACTED]) and the applicable shelter expenses. (Exhibits 2-14, 17-27)

(3) On September 24, 2009, the Department mailed Claimant a Notice of Case Action which explained Claimant's monthly FAP allotment. (Exhibits 28-33)

(4) On November 6, 2009, the Department received the Claimant's 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. 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 agreed that the Department used the correct income and expense figures in completing the FAP Budget, but did not understand why she is not entitled so more benefits given her current financial situation. Claimant is also dissatisfied with the Department's current policy as it relates to computation of FAP benefits. Administrative Law Judges, however, have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the Department policy set out in the program manuals. Finally, Claimant requested that her benefits be issued on the 3rd day of the month instead of the 7th. However, regardless of whether they are issued on the 3rd or the 7th, it is still a monthly issuance so there is no negative action in this regard.

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 eligibility.

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 eligibility.

