

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: 2010-12604
Issue No: 3003; 2001
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 9, 2010
Baraga County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 held on February 9, 2010. Claimant personally appeared and testified.

ISSUES

1. Did the department correctly deny claimant's Adult Medical Program (AMP) application on July 13, 2009?
2. Did the department correctly determine on July 13, 2009 the amount of Food Assistance Program (FAP) benefits claimant was entitled to receive?

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 May 27, 2009.

2. On July 13, 2009, department determined that the claimant had excess income for AMP and denied his application. On this date department also computed a FAP budget and determined that the claimant was eligible for \$16 per month in such benefits.

3. Claimant was notified of department's AMP and FAP determination on July 13, 2009, and requested a hearing on August 27, 2009.

CONCLUSIONS OF LAW

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 (DHS or department) pursuant to MCL 400.10, *et seq.* Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Claimant is objecting to department's AMP and FAP determinations stating that the department incorrectly budgeted his self-employment income from rentals. Claimant has a rental property on which he showed a profit on his income taxes, and another rental property on which he took a loss. Claimant is of the opinion that the department should offset his profit from first

rental property with loss from the second. Department did not do so, but budgeted the profit from first rental property only as claimant's self-employment income.

Departmental policy addresses income from self-employment in an item titled as such, BEM 502. This policy states that countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot off-set any other income except for farm loss amounts.

In claimant's case, his rental income from both rental properties is self-employment, and therefore one same kind of income. This Administrative Law Judge concludes that departmental policy prohibits self-employment loss from being deducted from "other" income, such as employment or unearned income, but does allow loss deduction from the entire combined self-employment income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly denied claimant's AMP, and also incorrectly determined the amount of FAP benefits claimant was entitled to receive.

Accordingly, department's action is REVERSED. Department shall:

1. Re-compute claimant's AMP and FAP eligibility based on May 27, 2009 application and counting total self-employment income minus total self-employment expense loss.
2. If found eligible for AMP, grant the claimant such benefits.
3. Issue the claimant any supplemental FAP benefits he is entitled to, but did not receive.
4. Notify the claimant in writing of department's determination.

SO ORDERED.

/s/

Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 31, 2010

Date Mailed: April 6, 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 date of the rehearing decision.

IR/om

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