

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: 2010-15999

Issue No: 3002

Case No: ██████████

Load No: ██████████

Hearing Date:

March 3, 2010

Clare County DHS

ADMINISTRATIVE LAW JUDGE: Kevin M. Scully

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 Lansing, Michigan on March 3, 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 an ongoing FAP recipient.
- (2) Claimant received two pay checks with gross earned come of ██████████ and ██████████ each.

(3) Claimant received Family Independence Program (FIP) benefits in the gross monthly amount of [REDACTED]

(4) Claimant did not report any medical expenses, dependent care expenses, nor child support expenses.

(5) Claimant reported shelter expenses of [REDACTED]

(6) On September 18, 2009, the Department completed a FAP budget for the certification period of October 1, 2009 to November 30, 2009, that resulted in a reduction in FAP benefits to [REDACTED]. (Department Exhibit 4).

(7) On September 18, 2009, the Department sent notice of the FAP allotment reduction to the Claimant. (Department Exhibit 3).

(8) On October 1, 2009, the Department received the Claimant's request for a hearing, protesting the Department's determination of her monthly FAP allotment.

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 this case, Claimant had submitted copies of two paystubs as documentation of actual earned income for the month of July 2009. (Department Exhibits 1 and 2). The two paystubs were used to calculate a prospective earned income of [REDACTED]. Claimant also had received [REDACTED] in FIP benefits that was entered into the budget as countable monthly unearned income, resulting in a total monthly income amount of [REDACTED]. The Claimant's adjusted gross income of [REDACTED] was calculated by subtracting the earned income deduction and the standard deduction from the total income. RFT 295 and RFT 255. Shelter expenses of [REDACTED] which had been submitted on 4/29/09, were factored into the FAP budget. Because the total shelter expenses were less than 50% of the Claimant's adjusted gross income, there was no excess shelter deduction and Claimant's adjusted gross income would remain [REDACTED]. BEM 556.

Claimant testified that she had moved on 6/1/09, and that certain shelter expenses were not factored into the budget. However, no documentation of these expenses was available to the Department when the FAP budget was being completed, and no additional documentation concerning housing expenses was made available during the hearing.

A claimant with a group size of 3 and a net income of [REDACTED] is entitled to FAP benefits of [REDACTED], which is the amount of FAP benefits granted to the Claimant for this period. RFT 260. This Administrative Law Judge finds that the Department has established that it acted in accordance with policy computing Claimant's FAP benefits.

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 benefits.

Accordingly, the Department's FAP determination is AFFIRMED, it is SO ORDERED.

/s/ _____
Kevin M. Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 16, 2010

Date Mailed: March 16, 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.

KS/vmc

cc:

