

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: 2010-20359
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 17, 2010
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Kevin 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 held March 17, 2010.

ISSUE

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

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 is an ongoing FAP recipient.
- (2) Claimant receives bi-weekly Unemployment Compensation Benefits in the amount of [REDACTED]. (Department Exhibits 8 and 9)

(3) Claimant receives monthly Retirement, Survivor's and Disability Insurance (RSDI) in the gross monthly amount of [REDACTED]. (Department Exhibit 14)

(4) Claimant's husband receives monthly RSDI in the gross monthly amount of [REDACTED]. (Department Exhibit 17)

(5) On January 22, 2010, the Department sent notice to the Claimant that she was no longer eligible for FAP benefits because her gross income exceeds the limits.

(6) On February 2, 2010, the Department received Claimant's request for a hearing, protesting the cancellation of her FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), 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 for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony,

and child support payments. 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 receives a total gross monthly income of [REDACTED], which is contributed to by both members of her FAP group. Claimant receives a monthly Unemployment Compensation Benefit in the gross monthly amount of \$ [REDACTED] which is calculated by multiplying her bi-weekly payments of \$ [REDACTED] by a factor of 2.15. Claimant also receives a monthly RSDI payment in the gross monthly amount of \$ [REDACTED]. In addition to Claimant's income, Claimant's husband receives a monthly RSDI payment in the gross monthly amount of \$ [REDACTED].

A claimant with a group size of two is ineligible for FAP benefits with a total monthly gross income over \$ [REDACTED]. Since the Claimant's total gross monthly income exceeds this amount, I find that the Department has established that it acted in accordance with policy determining Claimant's FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides 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 Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 24, 2010

Date Mailed: March 24, 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.

SK/vmc

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