

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: 2010-20436
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 17, 2010
Eaton 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 determined Claimant's Food Assistance Program (FAP) allotment based upon her failure to provide the requested verification?

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 a FAP recipient.
- (2) On December 29, 2009, the Department sent the Claimant a Verification

Checklist that requested proof of earned income for Claimant's son.

(3) The Department terminated Claimant's FAP benefits when the Claimant did not submit the requested verification.

(4) The Department stipulated that Claimant's son is a full-time student under the age of 18-years-old living with the Claimant, and that departmental policy excludes his income from countable income for FAP budgeting purposes.

(5) On December 29, 2009, the Department sent the Claimant notice that she was approved for FAP benefits for the period December 23, 2009 through December 31, 2009.

(6) On February 5, 2010, the Claimant requested a hearing, protesting the amount of FAP benefits she received for the month of December 2009, which had been prorated due to the interruption 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 earnings of an group member who is under the age of 18-years-old, and is attending elementary, middle or high school, and is living with someone who provides care or supervision is excluded for FAP budgeting purposes. BEM 501. Verification is not required for excluded income and assets unless needed to establish the exclusion. BAM 130.

In this case, the Department did not dispute that the Claimant's son is a student under the age of 18-years-old and is living with the Claimant. Therefore, it was unnecessary for Claimant to submit verification of her son's income for the redetermination.

This Administrative Law Judge does not find that the Department established that it acted in accordance with policy in determining Claimant's FAP allotment for the month of December 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department did not act in accordance with policy in determining Claimant's FAP allotment for the Month of December 2009.

Accordingly, the Department's FAP eligibility determination is Reversed, it is so ordered.

The Department shall:

(1) Redetermine Claimant's eligibility for the benefit period December 1, 2009 through December 31, 2009.

(2) Issue to the Claimant any retroactive FAP benefits she may be eligible to receive based on this redetermination.

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

Date Signed: March 22, 2010

Date Mailed: March 23, 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:

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