

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: 2010-22774

Issue No: 3002

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 17, 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 [REDACTED] on March 17, 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) On December 11, 2009 Claimant applied for FAP benefits.
- (2) On January 14, 2010, the Department completed a FAP budget using earned and unearned income from unemployment which resulted in a monthly FAP

allotment of [REDACTED] for December 11, 2009 – December 31, 2009 and a denial for January 1, 2009 - ongoing. (Exhibit 3)

(3) On January 14, 2010, the Department mailed Claimant a Notice of Case Action which explained Claimant's monthly FAP allotment. (Exhibit 3)

(4) On January 26, 2010, the Department received the Claimant's hearing request protesting the amount of her FAP allotment.

(5) Claimant suffered an on the job injury. She had gross earnings of [REDACTED] in her October 23, 2009 paycheck, [REDACTED] in her November 6, 2009 and November 20, 2009 paychecks and [REDACTED] in her December 4, 2009 paycheck when she attempted to go back to work for one day. (Exhibit 1)

(6) Claimant received unemployment income September – November 2009. (Exhibit 2)

(7) Claimant's employer faxed a Verification of Employment to the Department on December 30, 2009 which stated that Claimant had an on the job injury and her last paycheck was October 2009.

(8) Claimant's injury may require surgery and that she be off work for an indefinite period of time.

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 did not have fluctuating or irregular income. Claimant's earned income stopped when she was injured at work in October 2009. Claimant's employer provided a verification of employment to the Department on December 30, 2009 which stated that Claimant had an on the job injury and her last paycheck was in October 2009 (This document was requested by the undersigned, but not provided by the Department). Simply said, the best estimate of Claimant's future income

in January and beyond is not the average from October, November and December when it is known that Claimant is off of work indefinitely.

With the above said, based on the testimony and documentation offered at hearing, I do not 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, does not find that the Department acted in accordance with policy in computing Claimant's FAP eligibility.

Accordingly, the Department's FAP eligibility determination is REVERSED, it is SO ORDERED. The Department shall:

(1) Request verification of income from Claimant and Claimant's husband from January to the present and run a new FAP budget to determine FAP eligibility based on actual income.

(2) Issue Claimant supplemental benefits she is entitled to, if any.

(3) Notify Claimant in writing of the Department's revised determination.

(4) Claimant retains the right to request a hearing if she would like to contest the Department's revised determination.

/s/
Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 22, 2010

Date Mailed: March 22, 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.

SMB/db

cc:

