

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: 2010-24634
Issue No: 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 1, 2010
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 April 1, 2010. The claimant personally appeared and provided testimony, along with her husband, [REDACTED].

ISSUE

Did the department properly terminate the claimant's Food Assistance Program (FAP) benefits due to excess income in February, 2010?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The claimants were receiving FAP benefits when the department requested clarification of payments made to [REDACTED].

2. On January 12, 2010, the department mailed the claimants a Verification Checklist (DHS-3503), requesting the type and amount of monthly inheritance payments. This was due to the department by January 22, 2010. (Department Exhibit 1).
3. On January 20, 2010, the department received a breakdown showing what principal and interest the claimant was being paid by [REDACTED] (Department Exhibit 2 – 4).
4. On January 20, 2010, the department mailed the claimants another Verification Checklist, requesting legal documentation to show the payments were not income. (Department Exhibit 5).
5. On January 26, 2010, the department received a Promissory Note from the claimants showing [REDACTED] was loaned \$152,255.76 and would pay back the principal in monthly installments of \$912.85 and 6% interest each year. (Department Exhibit 7).
6. The department budgeted the total amount received each month as unearned income, which made the claimants excess income to receive FAP benefits. (Department Exhibit 8 – 10)
7. The claimants submitted a hearing request on March 2, 2010.

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

Department policy states:

INCOME

DEPARTMENT POLICY

All Programs

The group composition and program budgeting items specify whose income to count. The program budgeting items might also contain program-specific income deductions or disregards.

Income means benefits or payments measured in money. It includes money a person owns even if NOT paid directly such as stock dividends automatically reinvested and income paid to a representative.

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 income. The item specifies whether the income is earned or unearned.

The amount of income counted may be more than the amount a person actually receives, because it is the amount before any deductions including deductions for taxes and garnishments. The amount before any deductions is called the **gross** amount. PEM, Item 500, p. 1.

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. PEM 500. A non-categorically eligible, non-senior, disabled or disabled veteran (SDV) household must have income below the gross and net income limits. BEM 550. The monthly gross income limit to receive FAP benefits for a group of four is \$2389. RFT 250.

The claimants disagree with the department's decision to include all of their monthly payment from [REDACTED] as income. The claimants testified that they invested money they inherited into [REDACTED] and that only the interest income, not the principal amount, should be included as income.

Department policy indicates that interest and dividends paid directly to an individual are unearned income. BEM 503. The claimants are correct in their assertion that the principal amount they loaned to [REDACTED] is not income. The return of the principal amount that they loaned to the company is money they had previously and not income. Only the interest is income. Therefore, the department's determination to include the monthly principal and interest payment as income must be reversed. The department is to only budget the claimants' interest income.

However, it is noted that [REDACTED] testified that he is attending school. Department policy requires an individual in student status to meet certain criteria to receive FAP benefits. BEM 245. This Administrative Law Judge is unable to ascertain if the department has made a determination about the claimant's student status. Thus, the department must determine if the claimant meets any of the eligibility criteria for receiving FAP benefits while in school status.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly terminated the claimants' FAP benefits due to excess income.

Accordingly, the department's actions are REVERSED.

The department shall:

1. Initiate another determination of the claimants' eligibility for FAP benefits by determining the claimants' school status and budgeting the claimants' FAP benefits using only the interest as income.
2. Inform the claimants of the determination, once completed.

SO ORDERED.

/s/

Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 20, 2010

Date Mailed: April 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.

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