

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: 2010-25268
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 6, 2010
Delta County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on March 5, 2010. After due notice, a telephone hearing was held on Tuesday, April 6, 2010.

ISSUE

Whether the Department of Human Services (Department) correctly determined the Claimant's Food Assistance Program (FAP) allotment?

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 received FAP benefits with a group size of two.
- (2) The Claimant received two paychecks in the gross amounts of [REDACTED] and [REDACTED] during the month of January 2009.

(3) The Department completed a FAP budget for the month of March 2010, which resulted in a monthly FAP allotment of [REDACTED]

(4) On February 23, 2010, the Department sent the Claimant notice of his FAP allotment.

(5) On March 5, 2010, the Claimant requested a hearing, protesting the amount of his FAP allotment.

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 fore 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.

On February 2, 2010, during a review of the Claimant's FAP benefits, the Department discovered that the Claimant had not reported his earned income. The Department redetermined FAP budgets for the Claimant including his income, which resulted in a reduction in his FAP allotment.

The Claimant receives an average bi-weekly income of [REDACTED], which is determined from his two paychecks of [REDACTED]. The Department used this to calculate a prospective monthly income of [REDACTED] by multiplying the bi-weekly income by conversion factor of 2.15. The Claimant does not receive unearned income. The Claimant is entitled to an earned income deduction of 20% of his earned income, a standard deduction of [REDACTED], and an excess shelter deduction of [REDACTED], which results in a monthly net income of [REDACTED]. As a result, the Claimant is entitled to a monthly FAP allotment of [REDACTED].

The Claimant argued that the Department should permit him to take certain medical expense deductions. However, because no member of Claimant's FAP group is a senior, disabled, or a veteran for FAP purposes, he is not entitled to a medical deduction.

The Department has established that it acted in accordance with policy in determining the Claimant's FAP allotment.

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 the Claimant's FAP allotment.

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: April 9, 2010

Date Mailed: April 9, 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:

