

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 201025761

Issue No: 3015; 6000

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

November 23, 2010

Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on November 23, 2010. Claimant personally appeared and provided testimony.

The law, MCL 24.278(2) provides that a disposition may be made of a contested case hearing by stipulation or agreed settlement. In this case, Claimant testified that she requested assistance in paying her electricity and heating bills. The department verified that Claimant had provided a shut-off notice for the electricity and heat. Based on receipt of the shut-off notice, the department ran a determination of Claimant's eligibility for State Emergency Relief (SER) and based on the determination, paid Claimant's heat and electricity bills. Claimant admitted the department had paid both the electric and heating bills per her request.

Therefore, it is not necessary for the Administrative Law Judge to decide the SER matter was in dispute.

Pursuant to MAC R 400.906 and 400.903, the claimant's hearing request for SER benefits is HEREBY DISMISSED, because the claimant is no longer aggrieved by a department action.

ISSUE

Did the department properly determine that Claimant was not eligible for FAP benefits due to excess income?

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 applied for FAP and SER on January 12, 2010. (Department Exhibit 1, page 8).
2. The department paid Claimant's heating bill of \$441.86 on February 10, 2010 and paid Claimant's electricity bill of \$1,900.00 on February 19, 2010. (Department Exhibit 2).
3. The department mailed Claimant a Notice of Case Action on February 2, 2010, denying Claimant's Food Assistance Program (FAP) benefits request. (ALJ Exhibit 2). Claimant's FAP benefits were denied due to excess income. (ALJ Exhibit 3).
4. Claimant's group size is 3. The monthly net income limit for a group size of 3 is \$1,526.00.
5. Claimant received child support in the amount of \$231.96 for December 2009. (Department Exhibit #5).
6. Claimant submitted a hearing request on March 1, 2010 contesting the denial of her SER and FAP application. (Request for a Hearing).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment 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 (AMP), 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.

Claimant was receiving monthly earned income in the amount of \$2,159.00 at the time relevant to this matter. Claimant was being paid bi-weekly, and the department determined this amount by multiplying the \$1,004.23 of gross income Claimant earned on January 7, 2010, by a 2.15 conversion factor in accordance with the applicable department policy. Claimant also received unearned income in the form of child support in the amount of \$231.96 during December 2009. Therefore, Claimant's group received a total monthly income of \$2,390.00, which is reduced by a 20% earned income deduction of \$432.00 and a standard deduction of \$132.00, which leaves an adjusted gross income of \$1,826.00.

An excess shelter deduction is determined by adding Claimant's monthly housing expenses to the \$555.00 standard heat and utility deduction under the Low Income Home Energy Assistance Program, and subtracting half of Claimant's adjusted gross income. In this case, Claimant does not qualify for an excess shelter deduction because Claimant failed to provide proof of a shelter expense. Therefore, Claimant's net income remained \$1,826.00.

A claimant with a group size of three has a maximum net income limit of \$1,526.00. RFT 250. Because Claimant's net income of \$1,826.00 exceeded the allowable 100% net income limit of \$1,526.00, Claimant is not entitled to FAP benefits for the time period in question.

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 determining Claimant's FAP eligibility.

The department's FAP eligibility is AFFIRMED. It is SO ORDERED.


/S/ _____
Vicki L. Armstrong
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: December 7, 2010

Date Mailed: December 7, 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 mailing 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.

VLA / 

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