

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: 2010-27185
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 13, 2010
Livingston 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 February 2, 2010. After due notice, a telephone hearing was held on Tuesday, April 13, 2010.

ISSUE

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

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 Claimant receives FAP benefits.
- (2) The Claimant receives [REDACTED] in bi-weekly Unemployment Compensation benefits.

Department Exhibit 10.

- (3) Claimant's home was sold at a foreclosure sale on [REDACTED] Department Exhibit 7.
- (4) The Department completed a FAP budget on January 28, 2010, that resulted in a reduction of the Claimant's monthly FAP allotment to [REDACTED]. Department Exhibit 14.
- (5) The Department received Claimant's request for a hearing on February 2, 2010, protesting the reduction in 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.

Shelter expenses include mortgage payments, property taxes, and insurance on the structure. BEM 554. Shelter expenses are allowed when billed, but do not have to be paid to be allowed. BEM 554. Late fees and/or penalties incurred for shelter expenses are not an allowable expense. BEM 554.

The Claimant receives bi-weekly unemployment compensation payments of [REDACTED] as his sole source of income. When multiplied by 2.15, this results in a monthly gross unearned income of [REDACTED]. The Claimant is entitled to a [REDACTED] standard deduction, leaving him with an adjusted gross income of [REDACTED].

The Claimant is responsible for paying for heat and utilities at his residence, which entitles him to a standard expense deduction of [REDACTED]. The Claimant's home was purchased at a foreclosure sale and he currently does not have a mortgage obligation. Penalties and interest are not eligible expenses that may be considered in the Claimant's FAP budget. Insurance and property tax expenses need to be verified before they can be applied to the FAP budget, and there is no evidence that these expenses were verified in this case. Because the Claimant's monthly housing expenses are less than half of his monthly adjusted gross income, he is not entitled to take an excess shelter deduction.

Claimant's net monthly income is [REDACTED]. A claimant with a group size of four and a net income of [REDACTED] is entitled to a FAP allotment of [REDACTED], which is the amount of FAP benefits granted to the Claimant for this period. RFT 260. I find that the Department has established that it acted in accordance with policy determining Claimant's FAP allotment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department acted in accordance with policy in determining the Claimant's FAP eligibility.

Accordingly, the Department's FAP eligibility determination is AFFIRMED, it is SO ORDERED.

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

Date Signed: April 26, 2010

Date Mailed: April 27, 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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cc:

