

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: 2010-28046
Issue No: 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 20, 2010
Bay County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 20, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly determine that Claimant was not eligible for Food Assistance Program (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 was an ongoing recipient of Food Assistance Program (FAP) benefits under the Simplified Reporting Program. When Claimant was approved for Food Assistance Program (FAP) benefits under the Simplified Reporting Program he was provided with a Simplified Six

Month Review (DHS-1045) which specifically states “If someone is self-employed and has expenses, you will need to provide receipts to claim actual expenses.”

(2) On January 4, 2010, Claimant was sent a Semi-Annual Contact Report (DHS-1046). The 1046 Form stated Claimant must return the form with proof of income and expenses by February 1, 2010 or his Food Assistance Program (FAP) case would close on February 28, 2010.

(3) On January 26, 2010, Claimant returned the Semi-Annual Contact Report (DHS 1046) to the Department. Claimant submitted copies of all cash register receipts for 2009 and a list of expense items with their totals for 2009.

(4) On February 27, 2010, the Department ran a Food Assistance Program (FAP) financial eligibility budget using the information submitted. The Department applied a standard 25% expense deduction for self-employment income reported by Claimant. The results of the calculations showed that Claimant’s benefit group was not eligible for Food Assistance Program (FAP) benefits due to excess income. Claimant was sent a Notice of Case Action (DHS-1605) which stated that self-employment income was not previously included in the food budget due to systems errors and now that it is included the group is over income limits. The Notice stated that Claimant’s Food Assistance Program (FAP) case would close March 1, 2010.

(5) On March 15, 2010, Claimant submitted a request for 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).

The issue raised by Claimant is the self-employment income. Claimant submitted information as expenses and feels that if the information he submitted was not adequate, the Department should have called him and let him know to bring in more. Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

INCOME FROM SELF-EMPLOYMENT

DEPARTMENT POLICY

All Types of Assistance (TOA)

This item identifies all of the following:

- Guidelines for determining if an individual's income is considered to be from employment or self-employment.
- Allowable expenses of producing self-employment income.
- Self-Employment income types.

To create a new self-employment income record, go to the income questions screen and answer **yes** to the self-employment question.

This will add the self-employment Logical Unit of Work (LUW) to the driver flow and cause Bridges to consider the income.

COUNTABLE SELF-EMPLOYMENT INCOME

Countable income from self-employment equals the total proceeds **minus** allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income **except** for farm loss amounts. See Farming Expenses below.

Example: An individual operates a retail store. Total proceeds for the month are \$3,200. Allowable expenses total \$3,800. The \$600 deficit **cannot** be used to offset any other income.

Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses.

SELF-EMPLOYMENT EXPENSES

Allowed

Allowable expenses include all of the following:

- Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.
- Interest and principal on loans for equipment, real estate or income-producing property.
- Insurance premiums on loans for equipment, real estate and other income-producing property.
- Taxes paid on income-producing property.
- Transportation costs while on the job (example: fuel).
- Purchase of capital equipment.
- A child care provider's cost of meals for children. Do not allow costs for the provider's own children.
- Any other identifiable expense of producing self-employment income except those listed below.

Note: Allowable expenses for rental/room and board are different than those listed above. See BEM 504, ALLOWABLE RENTAL EXPENSES.

Not Allowed

Do **not** enter any of the following as self-employment expenses in Bridges:

- A net loss from a previous period.
- Federal, state and local income taxes.
- Personal entertainment or other individual business expenses.

- Money set aside for retirement.
- Depreciation on equipment, real estate or other capital investments.

VERIFICATION SOURCES

All TOA

Self-Employment Income

- Business receipts.
- Accounting or other business records.
- Income tax return.
- Other acceptable method that provides needed information.
- DHS-431, Self-Employment Statement.

Self-Employment Expenses

- Receipts. (BEM 502)

In this case the papers submitted by Claimant are in evidence. They are not specific receipts as required by Department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly determined that Claimant was not eligible for Food Assistance Program (FAP) benefits due to excess income.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHELD.

/s/

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 21, 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.

GFH/alc

cc:

