

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: 2010-28479

Issue No: 3015

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 21, 2010

Wayne County DHS (15)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 conducted on April 21, 2010 from Detroit, Michigan. The Claimant appeared and testified. George Brady, FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's application for Food Assistance Benefits (FAP) when it determined the claimant ineligible for benefits due to excess gross earned income?

FINDINGS OF FACT

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

1. The Claimant applied for FAP benefits on March 9, 2010 for herself and her husband and her grandson who lives with her. Exhibit 1

2. The Claimant has a FAP group of 3 as the family purchases and prepares food together.
3. The group is a non senior disabled veteran group. (non SDV)
4. The last 30 days income, earned by the claimant's spouse, used to compute the budget to determine FAP eligibility was \$ 1513.04, and \$1474.40. Exhibit 1
5. The Department determined the Claimant's group household income based on the earnings of the Claimant's husband based on income verification.
6. The Claimant's husband earned \$1513.04 for the biweekly pay period ending 2/25/10 and \$1474 for the biweekly pay period ending 3/11/10. Exhibit 1.
7. The Department calculated the Claimant's group monthly gross income to exceed the income limits for a FAP group of 3, as the group had excess income.
8. The Monthly Income limit as established by RFT 250 (the FAP income limits table) for a group of 3 members is \$1984 per month.
9. The Claimant's group's gross monthly income exceeds the monthly income limit for a FAP group of 3.
10. The Department issued a Notice of Case Action on March 2, 2010 and found the claimant ineligible for FAP assistance and denied the application on March 31, 2010.
11. Claimant objected to the Department's denial of her FAP application and filed this appeal. The Department received the Claimant's Request for Hearing on March 18, 2010.

CONCLUSIONS OF LAW

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et. seq.* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Bridges Program Reference Manual (“PRM”).

The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. BEM 550. Under 7 CFR 273.9, as amended, \$135.00 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter are also made. BEM 554. Id. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

Claimant does not dispute any of the income information used by DHS in calculating the FAP budget and the income was confirmed by her husband at the hearing. BAM 556 directs how FAP benefits are calculated.

The Department used bi-weekly paystubs to verify the group’s employment income. The information verified a gross pay amount of \$1513 for the pay period 2/25/10. The Department verified gross pay for 3/11/10 of \$1474.41. The average check was determined by adding together the two pay amounts and dividing by 2. The result is \$1493. The average weekly pay is

then multiplied by 2.15 to convert the income into a full month's income and results in a monthly gross income of \$3211.00 (cents dropped).

In accordance with BEM 550 a non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the income limits to be eligible for FAP benefits. The maximum amount of income a group of 3 members can have and still be eligible for benefits is determined by reference to RFT 250. RFT 250 provides that a group of 3 can have gross monthly earnings of \$1984. The Department used this amount based on a group of 3 members. Because the Claimant's group income exceeds the gross income limit, the Claimant's group is ineligible for FAP benefits.

The Department also determined that the group is a group of 3 members based on BEM 212, Page 1. The claimant is her grandson's primary caretaker and he lives with her. A caretaker of a child under the age of 18 can include that individual properly in her FAP group. The Claimant's grandson is 17 and, therefore, was properly included in the group. Further, because the Claimant and her group purchase and prepare food together, they are properly considered as a group per BEM 212, Page 11.

In the present case, according to the aforementioned policy on budgeting, Claimant's group has a gross monthly income of \$3211 and is, therefore, ineligible for FAP benefits because the group income exceeds the eligibility limit. The undersigned appreciates that economic times are difficult, but finds that the Department properly denied the FAP application due to excess income.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly denied the Claimant's FAP application.

Accordingly, the Department's FAP eligibility determination and the denial of the Claimant's FAP application for benefits, is AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/25/10

Date Mailed: 05/26/10

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.

LMF/dj

cc:

