

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: 2010-30029

Issue No: 3002

Case No:

Load No:

Hearing Date:

May 4, 2010

Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from Lansing, Michigan on May 4, 2010.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance Program (FAP) eligibility?

FINDINGS OF FACT

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

1. On March 5, 2010, Claimant completed and filed an application for FAP benefits.
2. On March 20, 2010, the Department sent Claimant a Verification Checklist with a due date of March 30, 2010. (Exhibit 6)

3. The Department did not receive loss of employment verification for Claimant's husband prior to the due date. (Exhibit 2)

4. The Department completed a FAP budget including Claimant's income and her husband's income which resulted in denied eligibility due to excess gross income. (Exhibit 7)

5. On March 31, 2010, the Department mailed Claimant a Notice of Case Action which explained the reasons for the denied FAP application – 1) excess gross income and 2) failure to verify necessary information. (Exhibit 5)

6. On April 5, 2010, the Department received the Claimant's hearing request protesting the denial of her FAP application.

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. Departmental policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), 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 that were performed for remuneration or profit. Unearned income means ALL income that is not earned and includes FIP, RSDI, SSI and UB.

The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Gross income is the amount of income before any deductions such as taxes or garnishments. Gross income includes amounts withheld from income which are any of the following: voluntary, to repay a debt or to meet a legal obligation. Some examples of amounts which may be withheld, but are still considered part of gross income are: income taxes, health or life insurance premiums, medicare premiums, union dues, loan payments, garnishments, court-ordered or voluntary child support payments. 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

In the instant case, the Department used the correct income in completing the FAP Budget. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the Department policy set out in the program manuals.

With the above said, based on the testimony and documentation offered at hearing, I find that the Department established that it acted in accordance with policy in computing Claimant's FAP eligibility.

DECISION AND ORDER

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

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

/s/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 5, 2010

Date Mailed: May 6, 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.

SB/lk

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