

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: 2010-33360  
Issue No: 3002  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
June 2, 2010  
Jackson 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 May 3, 2010. After due notice, a telephone hearing was held on Wednesday, June 2, 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 received FAP benefits until May 1, 2010, as a group of three.
- (2) The Claimant's group receives monthly Retirement, Survivor's and Disability Insurance (RSDI) in the gross monthly amount of [REDACTED].

(3) The Claimant's group receives monthly earned income in the gross monthly amount of [REDACTED]

(4) The Claimant has monthly housing expenses of [REDACTED]

(5) On April 28, 2010, the Department completed a FAP budget, which determined that the Claimant was not eligible for FAP benefits due to excess income.

(6) The Department received the Claimant's request for a hearing on May 3, 2010, protesting the reduction in her 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 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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130, p. 1. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130, p. 2. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

The Department completed a FAP budget on April 28, 2010, which determined that the Claimant was not eligible for FAP benefits. The Claimant and her husband receive a monthly gross earned income of [REDACTED] and their son receives RSDI benefits in the gross monthly

amount of [REDACTED]. The Claimant's total income is reduced by 20% of her earned income and the standard deduction of [REDACTED], which leaves her with an adjusted gross income of [REDACTED]. The adjusted gross income limit for a FAP group of three is [REDACTED].

The Claimant did not dispute the income levels used by the Department in its budget calculations.

The Claimant has monthly housing expenses that consist of a [REDACTED] house payment, a [REDACTED] lot rental fee, and a [REDACTED] homeowner's insurance payment. The Department converts the homeowner's insurance annual expense to a monthly expense by dividing the annual insurance cost of [REDACTED] by 12. The Claimant's monthly shelter expenses are added together, along with the heat and utility standard of [REDACTED] under the Low Income Home Energy Assistance Program, to determine a total shelter expense of [REDACTED]. This amount is less than half of the Claimant's adjusted gross income, and she is not entitled to an excess shelter deduction from her income.

The Claimant argued that the Department did not consider all of her monthly shelter expenses. The Claimant signed lease that states her lot rental fee is [REDACTED] per month. The Department does not include this full amount in its FAP budget, because only actual expenses are included. The lease allows the Claimant to pay only half of the lot fee when paid on time.

The Claimant testified that she borrowed money to avoid being evicted from her home, and that the Department should consider payments on this loan in its FAP budget. The Department does not consider these expenses because the Claimant had already received full credit for these expenses against her FAP budget during previous months.

Without an excess shelter deduction, the Claimant's net income is the same as her adjusted gross income of [REDACTED]. The net income limit for a group of three is [REDACTED].

The Claimant argued that her FAP group size is incorrect, and that a fourth person should be included. The Department received the Claimant's semi-annual contact report on April 26, 2010. The Claimant reported three people living in her household, and the Department relied on this declaration to determine her FAP group size.

Based on the testimony and evidence available at the hearing, I find that the Department established that it determined the Claimant's FAP eligibility in accordance with Department policy.

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 the Claimant's FAP eligibility.

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: June 18, 2010

Date Mailed: June 21, 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.

2010-33360/SK

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.

KS/vc

cc:

