

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: 2010-42280  
Issue No: 3002  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
August 4, 2010  
Genesee 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 July 8, 2010. After due notice, a telephone hearing was held on Wednesday, August 4, 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 Department received the Claimant's application for FAP benefits on June 1, 2010, with a group size of one. Department Exhibit 1 – 15.
- (2) The Claimant receives monthly earned income in the gross monthly amount of [REDACTED]. Department Exhibit 21 – 23.

(3) The Claimant receives monthly child support in the gross monthly amount of

██████████ Department Exhibit 20.

(4) The Claimant receives monthly unemployment compensation benefits in the gross monthly amount of ██████████. Department Exhibit 24.

(5) The Department completed a FAP budget on June 19, 2010, 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 July 8, 2010, protesting the termination of her FAP benefits.

#### 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.

The Department received the Claimant's application for FAP benefits on June 1, 2010, with a group size of one. On June 19, 2010, the Department completed a FAP budget to determine the Claimant's eligibility for FAP benefits. The Claimant receives monthly-earned income in the gross monthly amount of [REDACTED]. The Claimant also receives unearned income in the gross monthly amount of [REDACTED]. The Claimant's unearned income consists of child support and unemployment compensation benefits. The Claimant did not dispute the income the Department used to determine her eligibility for FAP benefits.

The Claimant's total countable income of [REDACTED] is the sum of her earned and unearned income. The gross income limit for a group of one is [REDACTED]. RFT 250. Therefore, the Claimant is not eligible to receive FAP benefits.

The Claimant argued that her earned income is not representative of her regular income. The Claimant testified that she works for a school, and at the conclusion of the school year she no longer receives this income.

The Department used the best information available to determine the Claimant's income for the 30 days before her application for benefits. BEM 505. While a change in income in the future may change the Claimant's eligibility for benefits, the Department used the Claimant's income at the time of application to determine her eligibility for benefits.

The Claimant argued that she does not receive regular child support payments.

The Department considered an average of the actual child support payments the Claimant received in the three months before her application for benefits as directed by Bridges Eligibility Manual Item 505, Page 3. The Claimant received no payments for two months, and a payment of [REDACTED] in the following month. The Department attributed [REDACTED] of this money received as the Claimant's unearned income for FAP budgeting purposes.

The Department established that it determined the Claimant's eligibility for FAP benefits in accordance with 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: August 12, 2010

Date Mailed: August 12, 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.

KS/vc

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