

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201042949  
Issue No.: 3003  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: August 9, 2010  
Wayne County DHS

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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 held on August 9, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED] Manager, appeared and testified.

**ISSUE**

Whether DHS properly calculated Claimant's self-employment income in determining Claimant's eligibility for 12/2009 Food Assistance Program (FAP) benefits.

**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 applied for FAP benefits on 12/15/09.
2. Claimant stated on the Assistance Application (DHS-1171) that he would receive \$600 in self-employment income in 12/2009.
3. Claimant's self-employment income was for janitorial work.
4. Claimant's income was reduced beginning 12/2009 as Claimant was no longer responsible for cleaning a second building, which he was previously getting paid to clean.

5. At the interview for FAP benefits, Claimant submitted all of his monthly 2009 income records, all of which included income received from the cleaning of the second building.
6. DHS calculated Claimant's 12/2009 FAP benefits based on a finding that Claimant receives \$1095/month in self-employment income.
7. On 1/9/10, DHS determined that Claimant was over-income for FAP benefits in 12/2009.
8. Claimant submitted a hearing request on 1/19/10 disputing the DHS determination that Claimant had excess income for 12/2009 FAP eligibility.

### **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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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 Bridges Reference Manual (BRM).

DHS specialists are directed to use past income to prospect income for the future unless changes are expected. BEM 505 at 4. When the income amount changes, specialists are to adjust the amount(s) being budgeted for future pay periods. *Id.* at 5. For changes in self-employment income, DHS specialists are to determine the monthly gross income to budget based on discussion with the client of what he/she expects to receive on average per month. *Id.*

In the present, case, DHS accepted the income records presented by Claimant at his FAP benefits interview and used the average to prospect Claimant's self-employment income. DHS calculated Claimant's monthly self-employment income amount to be \$1095/month. If Claimant's income did not change for beginning 12/2009, DHS would have been correct in calculating his income based on his 2009 employment records.

However, Claimant indicated on his Assistance Application that he only received \$600/month in self-employment. Claimant testified that the decrease was due to a reduction in his self-employment income. Shortly after submitting the Assistance Application, Claimant submitted an income verification supporting that his monthly self-employment income was reduced. Thus, DHS should have known that Claimant's self-

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employment income changed and that prior income records would not be an accurate way of prospecting Claimant's self-employment income.

Based on the DHS policy, DHS should have discussed Claimant's self-employment income and documented the reasons for why past income was not an accurate way to prospect Claimant's income. It is found that DHS over-budgeted Claimant's self-employment income in determining Claimant's eligibility for FAP benefits in 12/2009.

**DECISION AND ORDER**

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly calculated Claimant's FAP eligibility for 12/2009. It is ordered that DHS reinstate Claimant's 12/15/09 registration for FAP benefits and to recalculate Claimant's eligibility based on a monthly self-employment income of \$600/month.

/s/



Christian Gardocki  
Administrative Law Judge  
For Ismael Ahmed, Director  
Department of Human Services

Date Signed: August 10, 2010

Date Mailed: August 10, 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.

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