

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201047772
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 14, 2010
Midland 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 August 5, 2010. After due notice, a telephone hearing was held on Tuesday, September 14, 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 applied for FAP benefits as a group of three on May 17, 2010.
2. The Claimant receives monthly earned income in the gross monthly amount of [REDACTED].
3. The Claimant has monthly shelter expenses of [REDACTED].
4. The Department completed a FAP budget for May of 2010, which determined that the Claimant was eligible for a monthly FAP allotment of [REDACTED].

5. Beginning on June 5, 2010, the Claimant began to receive monthly earned income in the gross monthly amount of [REDACTED]
6. The Department completed a FAP budget for June of 2010, which determined that the Claimant was eligible for a monthly FAP allotment of [REDACTED].
7. The Department received the Claimant's request for a hearing on August 5, 2010, protesting the amount of 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 before 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.

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554.

The Department completed a FAP budget to determine the Claimant's eligibility for FAP benefits for May of 2010. A FAP group member received four paychecks during the month of May in the gross amounts of [REDACTED]. The average of these pay amounts was multiplied by a 4.3 conversion factor to determine his monthly earned income in the gross monthly amount of [REDACTED], which was the only income the household received that month. The Claimant's adjusted gross income of [REDACTED] was determined by subtracting the 20% earned income deduction and the \$132 standard deduction. The Department did not apply an excess shelter deduction because the shelter expenses including the heat and utility deduction were less than 50% of the Claimant's adjusted gross income.

A FAP group of three with a net income of [REDACTED] is entitled to a FAP allotment of [REDACTED]. RFT 260. Based on an application date of May 17, 2010, the Department properly determined that the Claimant was entitled to a prorated benefit amount of \$78.

The Department completed a FAP budget to determine the Claimant's eligibility for FAP benefits for June of 2010. A FAP group member received four paychecks during the month of May in the gross amounts of [REDACTED]. The average of these pay amounts was multiplied by a 4.3 conversion factor to determine his monthly earned income in the gross monthly amount of [REDACTED]. The Claimant returned to work on June 5, 2010, and received monthly earned income in the gross monthly amount of [REDACTED]. This was determined by multiplying her bi-monthly paycheck of [REDACTED] by two. The Claimant's adjusted gross income of [REDACTED] was determined by subtracting the 20% earned income deduction and the \$132 standard deduction from the groups combined income. The Department did not apply an excess shelter deduction because the shelter expenses including the heat and utility deduction were less than 50% of the Claimant's adjusted gross income.

A FAP group of three with a net income of [REDACTED] is entitled to a FAP allotment of [REDACTED]. RFT 260.

The Claimant argued that her monthly shelter expenses are [REDACTED], which would increase her housing expenses to allow an excess shelter deduction. This amount includes a monthly [REDACTED] rent payment for a mobile home lot, and a [REDACTED] loan payment for the purchase of their home.

However, [REDACTED] of the lot rental payment is a utility payment for water service. Since the Claimant received the \$555 heat and utility credit, she is not eligible to take an additional expense for her water utility payment.

The Claimant testified that she pays a monthly loan payment towards the purchase of her mobile home. The Claimant testified that her credit union required that she put up collateral to receive a loan for the purchase of the mobile home. The Claimant testified that her credit union declined to include the mobile home as collateral on the loan agreement, but did include a pickup truck owned by a FAP group member.

Therefore, the Department could not verify that the [REDACTED] loan payment was a housing expense, and it was not an allowable shelter expense for FAP purposes.

Based on the evidence and testimony available during the hearing, the Department has established that it properly determined the Claimant's income and expenses used to determine her eligibility for FAP benefits.

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: September 23, 2010

Date Mailed: September 24, 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

cc: [REDACTED]