

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.: 2010-51694
Issue No.: 3015
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 29, 2010
DHS County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) Sections 400.9 and 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was held on September 29, 2010. Claimant appeared and testified. [REDACTED]
[REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS calculated Claimant's Food Assistance Program (FAP) benefits correctly?

FINDINGS OF FACT

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

1. On September 1, 2009, Claimant began receiving FAP benefits of \$200 per month.
2. On [REDACTED] Claimant began receiving Unemployment Insurance (UI) benefits of \$359 every two weeks.
3. Claimant did not report his unearned UI income to DHS because he did not know he was supposed to do so.
4. On or about August 19, 2010, DHS learned that Claimant was receiving UI benefits.

5. On or about August 19, 2010, DHS reduced Claimant's FAP assistance from \$200 per month to \$16 per month.
6. On August 24, 2010, Claimant filed a notice with DHS requesting a hearing on this matter.

CONCLUSIONS OF LAW

FAP was established by the United States Food Stamp Act of 1977 and is implemented by federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules 400.3001-3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

In this matter, Claimant asserts that his FAP benefits were incorrectly calculated. BEM Item 500, which is titled "Income Overview," defines the word "income" as follows:

Income means a benefit or payment received by an individual which is measured in money.... Unearned income is all income that is not earned.... Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. Count all income that is **not** specifically excluded. BEM 500, p. 3 of 12 (bold print in original).

Unearned income is discussed in detail in BEM Item 503, "Income, Unearned." BEM 503 identifies all of the types of unearned income, it defines each type, and it indicates for each type of unearned income whether it is included as countable income for the different types of assistance. BEM 503.

The forty-nine categories of unearned income are: accelerated life insurance payments, adoption subsidies, Agent Orange payments, alien sponsor income, American Indian payments, black lung, child allocation, child foster care payments, child support, death benefits, donations/contributions, educational assistance (not work study), factor concentrate litigation settlement (*Walker v Bayer*), flexible benefits, foster grandparents, government aid (including Medicaid), home equity conversion plans, individual development accounts, insurance payments for medical expenses, interest and dividends directly to client, Japanese and Aleut payments, jury duty, lease of natural resources, loan proceeds, Michigan Rehabilitation Services payments, military allotments, Nazi Victims Compensation, Older American Volunteer Program, radiation exposure compensation, Railroad Retirement Board benefits, Retired Senior Volunteer

Program (RSVP), retirement income-other, Retirement, Survivors and Disability Insurance (RSDI) (AKA Social Security benefits), Ricky Ray Hemophilia Relief Act, sale of property in installments, SCORE or ACE, sick and accident insurance payments, spousal support, strike benefits, Supplemental Security Income (SSI), tax refunds and tax credits, trust payments, **unemployment benefits**, urban crime prevention, U.S. Civil Service and Federal Employee Retirement System, veterans benefits, VA pension and compensation, workers compensation, and Youthbuild. *Id.*, pp. 2-28. (Emphasis added.)

Unemployment benefits are presented as follows in BEM 503:

Unemployment benefits include all of the following:

- Unemployment benefits (UB) available through the Michigan Unemployment insurance agency (UIA) and comparable agencies in other states.
- Supplemental unemployment benefits (SUB pay) from an employer or other source.
- Trade Readjustment Act (TRA) payments.

Count the gross amount as unearned income.

BEM 503, pp. 24-25 of 32.

RFT 250, "FAP Income Limits," indicates that the monthly net income maximum is \$903. This means that a person with an income of more than \$903 is entitled only to a basic monthly amount of FAP benefits.

I have reviewed DHS eligibility calculations and I conclude that DHS has correctly granted Claimant a standard deduction of \$132, an excess shelter deduction of \$447 (the maximum allowable is \$459) and a child support deduction of \$45. When these deductions are taken out of Claimant's gross monthly income of \$1,543, the net income result is \$919. I find this is correctly calculated. I conclude that Claimant's income is above the maximum of \$903, and he is, therefore, entitled to FAP benefits of \$16 per month.

Based on all of my findings of fact and the legal authority presented above, I determine and conclude that Claimant's UI income has been correctly counted as income for DHS benefits purposes and that DHS has used this income information properly according to Claimant's income and deductions. DHS has made a correct determination that Claimant is eligible for \$16 per month FAP benefits at this time. DHS' action in this case is AFFIRMED. DHS is not required to take further action in this case.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines that DHS took appropriate action in calculating Claimant's FAP benefits based on his unearned UI income. The Department's action is AFFIRMED. The Department need take no further action.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 29, 2010

Date Mailed: September 29, 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.

JL/pf

cc:

