

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: 2010-12917
Issue No: 2014; 3015
Case No: [REDACTED]
Load No: 1 [REDACTED]
Hearing Date:
February 4, 2009
Cheboygan County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on February 4, 2009. Claimant and her husband appeared and testified.

ISSUES

- (1) Did the Department of Human Services properly determine that Claimant had too much income to receive Medical Assistance (MA) benefits?
- (2) Did the Department of Human Services properly determine that Claimant had too much income to receive 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 was an ongoing recipient of Medical Assistance (MA) and Food Assistance Program (FAP) benefits for a benefit group of seven. Claimant and her

husband are both self-employed. They own a campground (Sturgeon River Campground and Resort) and Claimant's husband is self employed in real estate services. Claimant's benefit cases were due for review.

(2) On October 5, 2009, Claimant submitted a Redetermination Form (DHS-1010). The Redetermination Form (DHS-1010) listed separate monthly total business expenses for July, August, and September. Claimant also submitted 2008 income tax forms for the two businesses.

(3) On November 23, 2009, the Department caseworker ran financial eligibility budgets for Claimant's benefit cases. The budgets showed that Claimant and her benefit group were no longer eligible for Medical Assistance (MA) or Food Assistance Program (FAP) benefits due to excess income. Claimant was sent a Notice of Case Action (DHS-1605).

(4) On December 1, 2009 Claimant submitted a request for hearing.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 (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) and the Program Reference Manual (PRM).

In this case, Claimant's concern is the use of business expenses in the financial eligibility budgets. The Department caseworker used the gross income from the tax documents, divided that by twelve for a monthly amount, and then applied the 25% self-employed business expense allowed in Department policy. Claimant and her husband realize that determining income for income tax purposes is very different than for public assistance programs. However, during the hearing they raised a legitimate issue regarding the application of mortgage payments on their campground in the financial eligibility budgets. Claimant and her husband testified that their residence is inside a building that is on the campground. They also testified that their mortgage payments are for the entire campground facility, that the mortgage expense is higher than the 25% business expense used, and that the mortgage expense should be applied as part of their business expense instead of under shelter costs.

Department policy provides the following guidance for caseworkers. The Department's policies are available on the internet through the Department's website.

BEM 502 INCOME FROM SELF-EMPLOYMENT

DEPARTMENT POLICY

All Types of Assistance (TOA)

This item identifies all of the following:

- Guidelines for determining if an individual's income is considered to be from employment or self-employment.
- Allowable expenses of producing self-employment income.
- Self-Employment income types.

COUNTABLE SELF-EMPLOYMENT INCOME

Countable income from self-employment equals the total proceeds **minus** allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income **except** for farm loss amounts. See Farming Expenses below.

Example: An individual operates a retail store. Total proceeds for the month are \$3,200. Allowable expenses total \$3,800. The \$600 deficit **cannot** be used to offset any other income.

Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses.

SELF-EMPLOYMENT EXPENSES

Allowed

Allowable expenses include all of the following:

- Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.
- Interest and principal on loans for equipment, real estate or income-producing property.
- Insurance premiums on loans for equipment, real estate and other income-producing property.
- Taxes paid on income-producing property.
- Transportation costs while on the job (example: fuel).
- Purchase of capital equipment.
- A child care provider's cost of meals for children. Do **not** allow costs for the provider's own children.
- Any other identifiable expense of producing self-employment income except those listed below.

Not Allowed

Do **not** enter any of the following as self-employment expenses in Bridges:

- A net loss from a previous period.
- Federal, state and local income taxes.
- Personal entertainment or other individual business expenses.
- Money set aside for retirement.
- Depreciation on equipment, real estate or other

capital investments.

Claimant makes a valid argument for using the mortgage payments as a business expense. However, to determine if this Departmental action was in accordance with policy we must also consider what information the Department had when it made the determination.

There is no mortgage information contained with the Redetermination Form (DHS-1010) materials submitted by Claimant and her husband. Because Claimant's case was being re-determined, Claimant had previously been receiving Medical Assistance (MA) and Food Assistance Program (FAP) benefits. The Food Assistance Program (FAP) budget used contains a housing expense of \$2,489.43. The record does not contain the previous Medical Assistance (MA) or Food Assistance Program (FAP) financial eligibility budgets. The record contains no specific evidence showing what previous mortgage information the Department had or how it was used. It seems possible that conversion to the Bridges system may have resulted in a different application of mortgage information the Department already had.

The initial burden rests on the Department to show that their action was correct and in accordance with policy. The evidence presented by the Department does not show that Claimant provided insufficient information and explanation of their mortgage expense. This Administrative Law Judge is not convinced that the Department properly applied ALL of the information it had in determining Claimant's eligibility for benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT properly determine that Claimant had too much income to receive Medical Assistance (MA) and Food Assistance Program (FAP) benefits.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

It is further ordered that the Department of Human Services re-determine Claimant's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) benefits applying policy to use the mortgage expense of the campground as a business expense.

/s/

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 1, 2010

Date Mailed: March 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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