

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: 2010-13339

Issue No: 3002

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

January 26, 2010

Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 telephone hearing was conducted from [REDACTED] on January 26, 2010.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance Program (FAP) eligibility?

FINDINGS OF FACT

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

- (1) Claimant is a FAP recipient.
 - (2) The Department completed a FAP budget for August 2009 which included earned and unearned income and resulted in a monthly FAP allotment of [REDACTED]
- (Exhibits 23-25)

(3) The Department completed a FAP budget for September 2009 which included earned and unearned income and resulted in a monthly FAP allotment of [REDACTED] (Exhibits 26-28)

(4) The Department completed a FAP budget for October 2009 which included earned and unearned income and resulted in a monthly FAP allotment of [REDACTED]. (Exhibits 29-35)

(5) On October 8, 2009, the Department sent Claimant an Intentional Program Violation Client Notice which stated that Claimant was disqualified from receiving FAP benefits for 12 months effective 11/1/09 for an overissuance which occurred between 1/1/09 – 6/30/09. After removing Claimant and starting administrative recoupment, Claimant's FAP benefits were to be reduced to [REDACTED] effective 11/1/09. (Exhibits 10-11)

(6) The Department completed a FAP budget for November 2009 which included only earned income and a reduction in group size and resulted in a monthly FAP allotment of [REDACTED] – after a [REDACTED] recoupment. (Exhibits 36-38)

(7) On October 14, 2009, the Department sent Claimant a Notice of Case Action informing her that her FAP had increased to [REDACTED] for a household size of 4 effective 11/1/09. (Exhibits 43-45)

(8) The Department completed a FAP budget for December 2009 which included only earned income and resulted in a monthly FAP allotment of [REDACTED] – after a [REDACTED] recoupment. (Exhibits 39-42)

(9) On November 30, 2009, the Department received Claimant's Redetermination form. (Exhibits 3-4)

(10) On December 4, 2009, the Department verified that Claimant's husband was receiving u [REDACTED] benefits and Claimant had earned income. (Exhibits 5-7)

(11) On December 4, 2009, the Department mailed Claimant a Notice of Case Action which stated that Claimant's FAP case was closed effective January 1, 2010 due to excess income – [REDACTED] – your food assistance is closing due to excess income. The reason you have been sent an overissuance notice is due to the fact that [REDACTED] benefits were not included in the budget.....". (Exhibits 46-47)

(12) On December 4, 2009, the Department sent Claimant a Notice of Overissuance informing her that she received an overissuance of [REDACTED] for December 2009. (Exhibit 48-50)

(13) On December 10, 2009, the Department received the Claimant's hearing request regarding her FAP eligibility. (Exhibit 2)

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 (DHS or department), administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), 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 that were performed for remuneration or profit.

Unearned income means ALL income that is not earned and includes FIP, RSDI, SSI and UB. 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

In the instant case, Claimant testified that her husband started receiving [REDACTED] benefits in early 2009, went back to work for a few weeks in August/September 2009 and then started receiving [REDACTED] benefits again. She thought her December FAP allotment was [REDACTED]. The Department offered documentation to show that Claimant's husband received [REDACTED] for the week ending 9/5/09 through 11/14/09 and testified that the unearned income was not budgeted after 8/31/09 which is why Claimant's FAP benefits dropped from [REDACTED] to [REDACTED] (excess income).

At the request of the undersigned, after hearing, the Department sent the undersigned all documents relevant to the issue. The Department sent 42 pages of documents including eligibility summaries, budgets, Notice(s) of Case Action, IPV documents, etc. concerning the time period in question.

It appears that the [REDACTED] income was included in the FAP budget in August, September and October 2009 and Claimant's allotment for each of these months was [REDACTED], respectively. The [REDACTED] income was not included in the November or December 2009 budgets and Claimant's FAP allotment rose to [REDACTED] based on the income decrease. It was not higher because the group size was reduced from 5-4 due to Claimant's IPV sanction and she only received [REDACTED] due to the recoupment. It was not mentioned at hearing, but, apparently, Claimant signed a repayment agreement for an overissuance of FAP and SER for the time period of 1/1/09 – 6/30/09 and her 12 month disqualification period began on 11/1/09. Claimant's husband's [REDACTED] benefits were included again in the January 2010 budget and Claimant's case was closed for excess income - Claimant's countable income of [REDACTED] exceeded the gross income limit of [REDACTED] for a group size of 4.

With the above said, the hearing issue before me is the reduction in benefits to [REDACTED] in January 2010 due to excess income – the hearing request made by Claimant and addressed by Claimant at hearing. On that issue alone, I find that the Department established that it acted in accordance with policy in computing Claimant's FAP eligibility. The issue of recoupment is not before me, therefore, I would leave any further investigation or hearing request on this issue up to the Department and Claimant, respectively.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in

computing Claimant's FAP eligibility. Accordingly, the Department's FAP eligibility determination is AFFIRMED, it is SO ORDERED.

/s/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 28, 2010

Date Mailed: January 28, 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.

SMB/db

cc:

