

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: 2010-14999

Issue No: 3002

Case No:

Load No:

Hearing Date:

February 11, 2010

Newaygo 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 February 11, 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) Claimant reported to the Department that he had self-employment income in October and November 2009, but also that he would not have it going forward.

(Exhibits 3, 7)

(3) On December 23, 2009, the Department completed a new FAP budget to include the self-employment income reported by Claimant which resulted in a decrease in Claimant's monthly FAP allotment from [REDACTED] to [REDACTED] effective January 1, 2010.

(Exhibits 2, 5)

(4) On December 23, 2009, the Department mailed Claimant a Notice of Case Action which explained the reduction in Claimant's monthly FAP allotment. (Exhibit 1)

(5) On January 4, 2010, the Department received the Claimant's hearing request.

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, I find that Claimant reported and/or attempted to report to the Department that he had self-employment income for the months of October and November 2009 only. Given that fact and that he did not have self-employment income after November 2009, it should not have been prospectively budgeted for January 2010. With that said, I do not find that the Department established that it acted in accordance with policy in computing Claimant's FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department acted in accordance with policy in computing Claimant's FAP eligibility.

Accordingly, the Department's FAP eligibility determination is REVERSED, it is SO ORDERED. The Department shall:

- (1) Run a new FAP budget for January 2010 without the self-employment income.
- (2) Issue Claimant supplemental benefits he is entitled to, if any.

- (3) Notify Claimant in writing of the Department's revised determination.
- (4) Claimant retains the right to request a hearing if he would like to contest the Department's revised determination.

/s/

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

Date Signed: February 18, 2010

Date Mailed: February 18, 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: R. Whitney
Newaygo County DHS
K. Keilen
S. M. Brown
Administrative Hearings