

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: 2010-16378  
Issue No: 2013, 3015  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
April 14, 2010  
Jackson 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 April 14, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly use the 25% deduction for Claimant's self-employment income causing changes in his Medical Assistance (MA) coverage and making him ineligible for 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 Food Assistance Program (FAP) benefits. Claimant's Food Assistance Program (FAP) case was due for re-determination in November 2009.

(2) On November 3, 2009, Claimant submitted a Redetermination Form (DHS-1010) along with many pages of business information on receipts and expenses for a three month period. Claimant purchases used items and then resells the items from his store.

(3) On December 23, 2009, the Department case worker determined that Claimant had not fully documented all of the self-employment expenses claimed. The standard 25% deduction for self-employment income was used in the financial eligibility budgets for Medical Assistance (MA) and Food Assistance Program (FAP). The new financial eligibility budgets changed Medical Assistance (MA) for Claimant's family and made him ineligible for Food Assistance Program (FAP) benefits due to excess income. Claimant was sent a Notice of Case Action (DHS-1605).

(4) On January 5, 2010, 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).

The single issue raised by Claimant is that of self-employment expenses in his income calculation. Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

## **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.

**VERIFICATION REQUIREMENTS**

**All TOA except Healthy Kids**

Verify countable income at **all** of the following:

- Application, including a program add, prior to authorizing benefits.
- At member add, only the income of the member being added.
- Redetermination.
- When program policy requires a change be budgeted.

The client has primary responsibility for obtaining verification. Do not deny assistance because an individual is unable to verify income. Assist the client in obtaining verification when requested. See BAM 130, VERIFICATION AND COLLATERAL CONTACTS and BEM 702, CDC VERIFICATIONS.

## **VERIFICATION SOURCES**

### **All TOA**

#### **Self-Employment Income**

- Business receipts.
- Accounting or other business records.
- Income tax return.
- Other acceptable method that provides needed information.
- DHS-431, Self-Employment Statement.

#### **Self-Employment Expenses**

- Receipts. (BEM 502)

In this case all of the documents submitted by Claimant were entered into evidence and reviewed. While Claimant has submitted detailed records, there are not receipts for all of the purchased items listed as inventory expense. Additionally: Self-employment tax that Claimant included is not an allowed expense; and there is a \$ [REDACTED] discrepancy between the listed expenses

and what my calculator came up with. While there is a very large number of receipts necessary to verify Claimant's business expenses, they are necessary in order to use actual expenses.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly used the 25% deduction for Claimant's self-employment income causing changes in his Medical Assistance (MA) coverage and making him ineligible for Food Assistance Program (FAP) benefits.

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

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

Date Signed: April 27, 2010

Date Mailed: April 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.

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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.

GFH/alc

cc:

