

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant,

Reg No: 2010-2490

Issue No: 3002

Case No: ██████████

Load No: ██████████

Hearing Date:

November 12, 2009

Lenawee 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 ██████████ on November 12, 2009.

ISSUE

Whether the Department properly reduced Claimant's Food Assistance Program (FAP) benefits?

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 initially completed a FAP budget which resulted in a FAP allotment of ██████████/mo. based on Claimant receiving ██████████0 in ██████████ income.

(Exhibits 22-24, 40-42, 67-69)

(3) The Department then removed Claimant's [REDACTED] income and completed a FAP budget which resulted in a FAP allotment of [REDACTED]/mo. (Exhibits 4-6, 73, 79)

4) The Department's position is that Claimant's [REDACTED] income should be counted as income to him even though his checks are deposited in his wife's account in [REDACTED] and there is a court order stating that he is to continue paying his wife the amount he receives from [REDACTED] rity. (General Judgment for Unlimited Separation and Money Judgment – Respondent husband is ordered to continue paying Petitioner wife the amount he receives from [REDACTED] each month, until such time as a spousal support award is made by the court.) (Exhibits 19-20, 25-26, 34-35, 49-53)

(5) The Department then completed a 3rd FAP budget for Claimant which resulted in a FAP allotment of [REDACTED]/mo. based on [REDACTED] in [REDACTED] income.

(6) On September 23, 2009, the Department sent Claimant a Notice of Case Action informing Claimant that his FAP benefits had been reduced from [REDACTED]/mo. to [REDACTED]/mo. (Exhibit 80)

(7) On October 5, 2009, the Department received the Claimant's hearing request. (Exhibit 2)

(8) Claimant's position is that his [REDACTED] income should not be budgeted as income to him since it goes straight to his wife's account and he was ordered to continue paying her the amount he receives from [REDACTED] until a spousal support award is made by the court.

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, 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. Income includes amounts withheld from income which are:

- Voluntary.
- To repay a debt.
- To meet a legal obligation.

Some examples of amounts which may be withheld, but are still considered income are:

- Income taxes.
- Health or life insurance premiums.
- Medicare premiums.
- Union dues.
- Loan payments.
- Garnishments.
- Court-ordered or voluntary child support payments. 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, department policy requires that Claimant's [REDACTED] income is attributable to him and budgeted as income. With that said, based on the testimony and documentation provided at hearing, I find that the Department established that it acted in accordance with policy in reducing Claimant's FAP benefits.

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 reducing Claimant's FAP benefits.

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: December 7, 2009

Date Mailed: December 8, 2009

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:

