

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: 2010-25453
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 6, 2010
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on March 1, 2010. After due notice, a telephone hearing was held on Tuesday, April 6, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) allotment?

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 receives FAP benefits with a group size of one.
- (2) The Department conducted a redetermination interview to review the Claimant's FAP benefits on November 2, 2009.

(3) The Claimant had a total annual property tax assessment on his home in the amount of [REDACTED] for 2009. Department Exhibit 2.

(4) The Claimant has a current property tax liability of [REDACTED].

(5) The Claimant pays for heat and utilities at his home.

(6) The Department completed a FAP budget and determined that the Claimant should receive \$154 in monthly FAP benefits. Department Exhibit 1.

(7) The Department received the Claimant's request for a hearing on March 1, 2010, protesting a decrease in his monthly FAP allotment.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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), Reference Table Manual (RFT), 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 for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony,

and child support payments. 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 uses expenses to determine net income that are provided to someone outside the FAP group, where someone inside the FAP is responsible to pay the expense, and where verification is provided. BEM 554. Property taxes, state and local assessments and insurance on the structure are allowable expenses. BEM 554. Late fees and/or penalties incurred for shelter expenses are not an allowable expense. BEM 554.

In this case, the Claimant pays property taxes on his home and is responsible for heating expenses. Due to Department error, the Department entered Claimant's total annual tax liability of \$ [REDACTED] into his FAP budget as a monthly housing expense. During the redetermination process, the Department determined that the Claimant's monthly housing expenses to be [REDACTED]

[REDACTED] This amount is the Claimant's total tax expense for 2009 of [REDACTED] divided by 12 months. The change in Claimant's monthly housing expenses caused his monthly FAP allotment to decrease from [REDACTED].

The Claimant argued that the corrected housing expenses are not an accurate reflection of his current shelter expenses, and that he is required to pay [REDACTED] per month. However, a large portion of Claimant's monthly expense goes towards interest and late fees on his property taxes, which are not allowable expenses for FAP budgeting purposes.

This Administrative Law Judge finds that the Department correctly determined the Claimant's monthly housing expenses following the redetermination on November 2, 2009, and therefore acted in accordance with policy determining Claimant's continuing FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in computing Claimant's FAP benefits.

The Department's FAP determination is AFFIRMED, it is SO ORDERED.

/s/ _____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 9, 2010

Date Mailed: April 9, 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.

KS/vmc

cc:

