

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: 2010-30242

Issue No: 3002

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 5, 2010

Kent 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 29, 2010. After due notice, a telephone hearing was held on Wednesday, May 5, 2010.

ISSUE

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

FINDINGS OF FACT

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

- (1) The Claimant receives FAP benefits as part of a group of four.
- (2) The Claimant's group receives monthly unearned income in the gross monthly amount of [REDACTED]
- (3) The Claimant has monthly housing expenses of [REDACTED]

(4) The Department completed a FAP budget on February 8, 2010, which determined that the Claimant was entitled to a FAP monthly allotment of [REDACTED]

(5) The Department received the Claimant's request for a hearing on March 29, 2010, protesting the amount of her 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 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.

The members of the Claimant's group receive a total gross monthly income of \$1,873, which is composed of RSDI received by three of the group members. This income is reduced by the standard deduction of \$144 to calculate an adjusted gross income of \$1,729. An excess shelter deduction of \$41 is determined by adding shelter expenses of \$350 to the heat and utility standard of \$555 under the Low Income Home Energy Assistance Program, and subtracting 50% of the adjusted gross income.

The Claimant's net income of [REDACTED] is determined by subtracting the excess shelter deduction from her adjusted gross income. A claimant with a group size of four and a net income of [REDACTED] is entitled to a FAP allotment of [REDACTED], which is the amount of FAP benefits granted to the Claimant for this period. RFT 260. I find that the Department has established that it acted in accordance with policy determining Claimant's FAP allotment.

The Claimant testified that a previous FAP budget completed by the Department had granted a higher FAP allotment. The Claimant argued that it was unfair to make quick adjustments to her FAP allotment, regardless of how the calculations were made. However, a FAP budget that results in a payment exceeding what the client is eligible to receive may result in a recoupment action by the Department, regardless of the source of the error. It was not a violation of policy for the Department to complete an additional FAP budget as additional information about the Claimant's finances became available.

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 the Claimant's FAP eligibility.

The Department's FAP eligibility determination is AFFIRMED. It is SO ORDERED.

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

Date Signed: May 17, 2010

Date Mailed: May 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.

KS/vc

cc:

