

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: 2010-30936
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 2, 2010
Monroe 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 February 5, 2010. After due notice, a telephone hearing was held on Wednesday, June 2, 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 received FAP benefits until March 1, 2010 as a group of five.
- (2) A member of the Claimant's FAP group receives monthly unemployment compensation benefits in the gross monthly amount of [REDACTED]. Department Exhibit 9.

(3) A member of the Claimant's FAP group receives a monthly earned income in the gross monthly amount of [REDACTED]. Department Exhibit 10.

(4) The Claimant has monthly housing expenses of [REDACTED]. Department Exhibit 13 – 14.

(5) The Department completed a FAP budget on February 22, 2010, which determined that the Claimant was not eligible for FAP benefits due to excess income.

(6) The Department received the Claimant's request for a hearing on February 5, 2010, protesting the termination of her FAP benefits.

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130, p. 1. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130, p. 2. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

Clients are allowed ten calendar days to provide the verifications requested by the Department. BAM 130, p. 4. The Department should send a negative action notice when the client indicates a refusal to provide the verification, or the time period provided has lapsed and

the client has not made a reasonable effort to provide it. BAM 130, p. 4. The Department should extend the time limit no more than once if the client cannot provide the verification despite a reasonable effort. BAM 130, p. 4.

The Claimant's group receives an earned income in the gross monthly amount of [REDACTED], and unemployment compensation benefits in the gross monthly amount of [REDACTED]. The Department reduces the sum of this income 20% of the earned income, and a [REDACTED] standard deduction to determine an adjusted gross income of [REDACTED]. The Claimant has a total monthly housing expense of [REDACTED] which consists of a monthly land contract payment of [REDACTED] monthly property taxes of [REDACTED], and home insurance of [REDACTED]1. The Department adds monthly housing expenses to the [REDACTED] heat and utility standard under Low Income Home Energy Assistance Program to determine a total shelter expense of [REDACTED]. The Claimant does not receive an excess shelter deduction because her total shelter expenses are less than half of her adjusted gross income.

The Claimant's net income of [REDACTED] is the same as her adjusted gross income, because she is not entitled to an excess shelter expense. Because the Claimant's net income is greater than the net income limit of [REDACTED] for a FAP group of five, the Claimant is not eligible for FAP benefits.

The Claimant argued that the Department overstated her income because she was not receiving earned income and unearned income at the same time. The Department testified that is used all of the information available to determine the Claimant's FAP eligibility. Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105. No

evidence was presented at the hearing that the Claimant reported a loss of earned income before the Department completed its review of the Claimant's FAP benefits.

Based on the testimony and evidence presented at the hearing, the Department properly determined the Claimant's eligibility for 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 determining 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: June 24, 2010

Date Mailed: June 24, 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:

