

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: 2010-32983
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 26, 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 April 23, 2010. After due notice, a telephone hearing was held on Wednesday, May 26, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's 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) The Claimant receives FAP benefits as a group of one.
- (2) The Claimant receives monthly Social Security benefits in the gross monthly amount of [REDACTED].

(3) The Claimant has monthly child support expenses of [REDACTED] 7.

(4) The Claimant has monthly housing expenses of [REDACTED].

(5) On April 16, 2010, the Department completed a FAB budget that determined the Claimant was entitled to a monthly FAP allotment of [REDACTED].

(6) On April 23, 2010, the Department received the Claimant's request for a hearing, protesting the reduction of his 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 fore 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.

Before May of 2010, the Claimant was FAP recipient, and received monthly Social Security benefits in the gross monthly amount of [REDACTED]. This amount was reduced by the standard deduction of [REDACTED], and child support expenses of [REDACTED] to determine his adjusted gross income of [REDACTED]. An excess shelter deduction of [REDACTED] was determined by adding the Claimant's shelter of expenses of [REDACTED] to the heat and utility standard of [REDACTED] under the Low

Income Home Energy Assistance Program, and subtracting half of his adjusted gross income.

The Claimant's net income of [REDACTED] was determined by subtracting the excess shelter deduction from his adjusted gross income. A FAP recipient with a group size of one and a net income of [REDACTED] is entitled to a monthly FAP allotment of \$111.

On April 15, 2010, the Department reviewed the Claimant's FAP benefits. The Department became aware that the Claimant had made child support payments of only [REDACTED] each month for February, March, and April of 2010. The change in child support expenses was the only change to the Claimant's FAP budget, and this raised his adjusted gross income to [REDACTED] per month. The change in adjusted gross income caused the Claimant's excess shelter deduction to fall to [REDACTED]. Subtracting the excess shelter deduction from his adjusted gross income left him with a net income of [REDACTED]. A FAP recipient with a group size of one and a net income of [REDACTED] is entitled to a monthly FAP allotment of [REDACTED].

The Department reported that the Claimant was entitled to a monthly FAP allotment of [REDACTED] as of May 1, 2010. The Department testified that the only change in the Claimant's FAP budget was the amount of child support paid each month. However, when this new information is entered into the Claimant's FAP budget, the resulting FAP allotment of [REDACTED] is different from what the [REDACTED] FAP allotment Department determined. Therefore, the Department has not demonstrated that it acted according to policy when it determined the Claimant's FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to establish that it acted in accordance with policy when it determined the Claimant's FAP eligibility.

Accordingly, the Department's FAP eligibility determination is REVERSED. It is further ORDERED that the Department shall:

1. Redetermine the Claimant's FAP allotment as of May 1, 2010.
2. Issue the Claimant any retroactive FAP benefits he may be eligible to receive, if any.
3. Notify the Claimant of it FAP eligibility determination.

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

Date Signed: June 11, 2010

Date Mailed: June 15, 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:

