

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: 20103452

Issue No: 3002

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

November 18, 2009

Genesee 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 [REDACTED] on November 18, 2009.

ISSUE

Whether the Department properly computed Claimant's Food Assistance Program (FAP) allotment?

FINDINGS OF FACT

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

- (1) On August 4, 2009, Claimant applied for FAP benefits. (Exhibits 35-50)
- (2) On September 28, 2009, the Department completed a FAP budget based on Claimant's income and expenses which resulted in a FAP allotment of [REDACTED]/mo. (Exhibits 20, 23-26, 30-32)

(3) On September 28, 2009, the Department sent Claimant a Notice of Case Action informing him that his FAP allotment was \$16/mo. (Exhibits 2-5)

(4) On October 4, 2009, the Department received the Claimant's hearing request protesting the amount of his FAP allotment. (Hearing Request)

(5) The Department acknowledged at hearing that it failed to budget Claimant's monthly child support obligation. (Exhibits 22, 27-29)

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. 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, the Department used the proper income and expenses with the exception of failing to include Claimant's child support obligation. Therefore, based on the testimony and documentation offered at hearing, I do not find that the Department established that it acted in accordance with policy in computing Claimant's FAP allotment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department established that it acted in accordance with policy in computing Claimant's FAP allotment.

Accordingly, the Department's FAP eligibility determination is REVERSED, it is SO ORDERED. The Department shall:

- (1) Run a new FAP budget to include Claimant's monthly child support obligation and make a revised determination as to Claimant's monthly FAP allotment.
- (2) Notify Claimant in writing of the Department's revised determination.

