

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: 2010-37025
Issue No: 3015; 4013
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 30, 2010
Ottawa County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 claimant's request for a hearing. After due notice, a three-way telephone conference hearing was held on 6/30/2010. Claimant appeared by conference telephone.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Food Assistance Program (FAP) and State Disability Assistance (SDA) applications on the grounds of excess income?

FINDINGS OF FACT

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

- (1) In 4/25/2010, claimant applied for FAP and SDA with Michigan DHS.
- (2) On 4/28/2010, the DHS denied on the grounds of excess income for both programs.

(3) Claimant receives a gross amount of Social Security totaling \$1,882.50 per month. Claimant receives a net amount after the \$96.50 Medicare premium is deducted from the gross Social Security amount.

(4) Department policy requires the department to count the gross amount of Social Security income in calculating eligibility for welfare programs.

(5) The income cap for claimant for the FAP program is \$903. Claimant's monthly income after allowable deductions is \$1,639. Claimant's countable income exceeds the FAP cap. Exhibit 14.

(6) Claimant requested that the DHS allow an unverified rent expense in the amount of \$850 for a storage facility/building. While the DHS cannot allow unverified expenses in the budgeting processes, the department ran a budget showing that even if it were allowed claimant's net income would still exceed the FAP cap. Claimant would still not be eligible for FAP benefits.

(7) The SDA cap for eligibility or payment standard is \$269. Claimant's SDA budget shows that his countable income is \$1,882. Claimant exceeds the income eligibility for SDA. Exhibits 16, 17.

(8) The department reviewed claimant's potential FAP categorical eligibility and found no eligibility on behalf of claimant.

(9) Claimant offered no income or verification to refute the documentary evidence the department had from Social Security.

(10) On 5/19/2010 claimant filed a hearing request.

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. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Applicable policy and procedure to all the issues herein are found in the following items: BEM Item 500, 503, 550, 554, 515, 518. Charts are found in RFT 250 and 255.

FOOD ASSISTANCE PROGRAM

In this case, the claimant seemed very confused about his income. Claimant's gross income payment from Social Security is \$1,882.50 per month. This is an amount claimant is eligible for prior to any deductions. This is called the gross amount. As in many individual's situations, the actual amount paid may differ due to certain deductions – this is called the net payment. In this case, the difference is due to Social Security deducting Claimant's Medicare premium from claimant's gross amount prior to issuing a check, resulting in a reduction (also know as the net payment). The amount before the deduction is the gross income.

Claimant argued that the department should count the net amount. Policy found in BEM Item 500 requires the department to count the gross amount and not the net amount. The DHS is required under Federal and State law and policy to count claimant's gross amount of

\$1,882.50. However, it is obvious from the budgets herein that even if the department counted the net amount there would still not be eligibility.

The FAP budget in this case presented by the department is found in Exhibits 13, 14, and 15. These budgets show applicable deductions which are allowed. Claimant is given a Medicare premium deduction after the \$35 medical expense. Claimant is also allowed a standard deduction of \$132. It is noted that claimant also argued that he should be allowed to have an \$850 storage facility/building deduction as rent. While the department indicated there was no verification with regards to the same, the department did on its own accord attempt to run a FAP budget showing the potential outcome where an \$850 rent deduction was allowed. In both the FAP budget presented for the evidentiary hearing as well one calculating an \$850 rent deduction, claimant would not have FAP eligibility on the grounds that his net income of \$1,639 exceeds the net income limit of \$903.

SDA BUDGET

The SDA budget is laid out in Exhibits 16 and 17. As noted in this budget, the income standard for eligibility is triggered at \$269. Claimant's income is \$1,882. Claimant significantly exceeds eligibility for SDA.

Claimant did not offer any evidence that the information and verification(s) the department had from Social Security with regards to claimant's income was not correct.

The purview of an Administrative Law Judge is to review the department's actions and to make a determination if those actions are correct under policy and procedure. This ALJ has reviewed these budgets under the applicable facts herein and finds that the department's calculations were correct. As such, the department's actions must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department's actions were correct.

Accordingly, the department's denial of claimant's FAP and SDA applications was correct and is hereby UPHELD.

/s/ _____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 10, 2010

Date Mailed: September 10, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

JS/vc

cc:

