

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: 2010-38346
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 21, 2010
Grand Traverse 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 June 7, 2010. After due notice, a telephone hearing was held on Wednesday, July 21, 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 June 1, 2010, as a group of two.
- (2) The Claimant reported a change in her household income on April 20, 2010.

Department Exhibit 1.

(3) The Claimant receives monthly earned income in the gross monthly amount of

██████████ and her husband receives monthly earned income in the gross monthly amount of

██████████ Department Exhibit 3.

(3) On April 22, 2010, the Department determined that the Claimant was not eligible for FAP benefits due to excess income. Department Exhibit 3.

(4) The Department received the Claimant's request for a hearing on July 7, 2010, protesting the expenses used by the Department to determine FAP eligibility.

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 before 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.

Bridges uses certain expenses to determine net income for FAP eligibility and benefit levels. For groups with no senior/disabled/disabled veteran (SDV) member, the Department includes the following expenses:

- Dependent care expense.
- Excess shelter up to the maximum in RFT 255.
- Court ordered child support and arrearages paid to non-household members. BEM 554.

For groups with one or more SDV member, the Department includes the following expenses:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35. BEM 554

The Claimant was receiving FAP benefits when she reported a change in her household income to the Department on April 20, 2010. The Department used this income and expenses allowable by policy to determine the Claimant's eligibility for FAP benefits.

The Claimant's FAP group of two people receives total monthly earned income in the gross monthly amount of [REDACTED]. This amount is made up of [REDACTED] earned by the Claimant, and [REDACTED] earned by her husband. The gross income limit for a group of two is [REDACTED]. RFT 250.

Since the Claimant's household exceeds the gross income limit for a group of two, the Department was not able to consider any of her expenses to determine her eligibility for FAP benefits. Furthermore, if the Claimant's gross income had not exceeded the limit established by policy, parole fees, court fees, group fees, and tether fees would not have been authorized expenses that the Department could have considered to determine the Claimant's eligibility for FAP benefits.

A FAP group of two with a gross income of [REDACTED] is not eligible for FAP benefits because the group exceeds the gross income limit. RFT 250. I find that the Department has established that it acted in accordance with policy determining Claimant's FAP allotment.

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: July 27, 2010

Date Mailed: July 28, 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:

