

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010 40054
Issue No.: 3002/3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 21, 2010
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on July 21, 2010. The claimant appeared and testified. [REDACTED], ES and [REDACTED], AP Supervisor appeared on behalf of the Department.

ISSUE

Was the claimant's Food Assistance Program ("FAP") allotment computed and allocated correctly?

FINDINGS OF FACT

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

1. Claimant's application for FAP was denied by the Department by notice of case action June 4, 2010.
2. The Claimant's application was denied because her group's net income exceeded the income limit of \$1526.
3. The Claimant's FAP group consists of 3 members.
4. The Department used four pay stubs to calculate the Claimant's earned income. Exhibit 1
5. Claimant's FAP budget was run June 1, 2010 and claimant's budget indicated claimant's group was not eligible for FAP benefits as the group

gross income of \$2693 exceeded the income limits for a group of 3 per RFT 250 which is \$1526.

6. The Claimant confirmed the amount of her pay stubs as correct. The Department computed the gross monthly earned income taking an average of the weekly earnings and multiplying the average weekly earnings by 4.3. This computation is in conformance with the Department policy found in BEM 505. Exhibits 3 and 4.
7. The Claimant also receives child support for her two children and the Department utilized online information for the prior 3 months to determine the unearned income for each child attributable to the FAP group. The child support amounts were confirmed as correct by the Claimant. Exhibit 2.
8. The Claimant's FAP application was denied June 4, 2010 due to the group gross income exceeding the income limits making the group ineligible for FAP benefits.
9. The FAP budget the Department presented is correct. The Claimant's gross earned income in the amount of \$2393 is correct.
10. Claimant filed for hearing on June 15, 2010, questioning why her groups FAP application was denied.

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM, Item 500. A standard deduction from income of \$132 is allowed for each household. Certain non-reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$300 for non-senior/disabled/veteran households. BEM,

Items 500 and 554; RFT 255; 7 CFR 273.2. Only heat, electricity, sewer, trash and telephone are allowed deductions. BEM 554. Any other expenses are considered non-critical, and thus, not allowed to be deducted from gross income. Furthermore, RFT 255 states exactly how much is allowed to be claimed for each deduction.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the Department properly computed the claimant's gross earned and unearned income. The gross income must be counted and in this case is \$2693. BEM 500. The amounts on the earnings pay stubs were verified by the claimant as correct as were the child support amounts received. Per RFT 250 the gross income limit for a group of 3 members is \$1984 and thus the claimant is not eligible for FAP benefits because her gross income exceeds the income limit.

It must be noted that the Department erred when it compared the group net income results with the net income limit of \$1526 and should have compared the gross income to the limit of \$1984 to determine eligibility. Notwithstanding this mistake, the analysis herein is correct as are the computations the Department made to determine gross income so the Department's error does not affect the outcome, and the FAP application was properly denied.

The Administrative Law Judge must find that the Claimant's group is not eligible for FAP as the group gross income exceeds the monthly income limit. RFT 250. The Administrative Law Judge has reviewed the budget and found no significant errors. Claimant was unable to point out specifically what parts of the budget she felt were in error. Therefore, the undersigned finds that the Department correctly determined the claimant's FAP case should be closed due to ineligibility. The Claimant is encouraged to reapply for FAP benefits if she experiences a decrease in her child support received or in her earnings.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to close the Claimant's FAP case was correct.

Accordingly, the Department's decision is AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/22/2010

Date Mailed: 07/22/2010

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 of the rehearing decision.

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