

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: 201047816
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 13, 2010
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully for Lauren Harkness

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 August 9, 2010. After due notice, a telephone hearing was held on Monday, September 13, 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 is an ongoing FAP recipient as a group of two.
2. The Claimant receives monthly pension income in the gross monthly amount of [REDACTED].
3. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of [REDACTED].
4. The Claimant receives monthly child support in the gross monthly amount of [REDACTED].

5. On August 4, 2010, the Department notified the Claimant that it was terminating his FAP benefits effective September 1, 2010, due to excess income
6. The Department received the Claimant's request for a hearing on August 9, 2010, protesting the termination 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 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.

The Department conducted a routine evaluation of the Claimant's eligibility for FAP benefits based on a Redetermination form that was sent to the Claimant on July 14, 2010. The Claimant receives unearned income in the gross monthly amount of [REDACTED]. This unearned income is made up of a monthly pension payment of [REDACTED] monthly RSDI benefits of [REDACTED], and monthly child support payments of [REDACTED]. The Claimant's child support income was determined by taking the average of actual child support payments received over a three month period as directed by Bridges Eligibility Manual Item 505. The Claimant received child support payments of [REDACTED] in May of 2010, [REDACTED] in June of 2010, and [REDACTED] in July of 2010. The Claimant's adjusted gross

income of [REDACTED] was determined by subtracting the \$132 standard deduction and a [REDACTED] medical deduction from the Claimant's total income. The Claimant's excess shelter deduction of [REDACTED] was determined by adding the Claimant's monthly shelter expense of [REDACTED] to the standard heat and utility deduction of \$555 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 his excess shelter deduction from his adjusted gross income. The income limit for a group of two is [REDACTED]. RFT 260.

The Claimant argued that the Department failed to consider that three people live in his household when determining FAP eligibility.

The Department determined eligibility based on the Redetermination form the Claimant returned to the Department. The Claimant applied for FAP benefits for two people, and did not report to the Department that there was a third person living with him.

Based on the evidence and testimony available during the hearing, the Department has established that it terminated the Claimant's FAP benefits due to excess income in accordance with policy.

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 for Lauren Harkness
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 23, 2010

Date Mailed: September 24, 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.

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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

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