

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: 201049302
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 15, 2010
Kalamazoo 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 August 9, 2010. After due notice, a telephone hearing was held on Wednesday, September 15, 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 four.
2. On June 11, 2008, the Department received verification of the Claimant's monthly shelter expenses of [REDACTED]. Heat, electric, water/sewer, cooking fuel, and trash removal are included in this shelter expense. Department Exhibit 1.
3. The Department determined that the Claimant was eligible to receive a monthly FAP allotment of [REDACTED] effective June 1, 2010. Department Exhibits 2 – 4.
4. The Claimant moved on July 1, 2010. Department Exhibit 5.

5. On August 9, 2010, the Department received verification of the Claimant's monthly shelter expenses of [REDACTED]. The Claimant is responsible for heat and electric expenses separate from housing. Department Exhibit 5.
6. The Claimant receives monthly unearned income in the gross monthly amount of [REDACTED].
7. The Department determined that the Claimant was eligible to receive a monthly FAP allotment of [REDACTED] effective September 1, 2010. Department Exhibits 6 – 8.
8. On August 9, 2010, the Department received the Claimant's request for a hearing, protesting the reduction of her FAP allotment.

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).

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554. The heat and utility standard covers all heat and utility costs including cooling and FAP groups that qualify for the heat and utility standard do not receive any other individual utility standards. BEM 554. FAP groups not eligible for the heat and utility standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. BEM 554.

Actual utility expenses will be used for the following expenses only:

- Utility installation charges (not deposits).
- Water well installation and maintenance.
- Septic installation and maintenance. BEM 554.

The Department completed a FAP budget to determine the Claimant's FAP allotment for June of 2010. The Claimant receives monthly unearned in the gross monthly amount of [REDACTED]. The Claimant does not dispute this amount. The Claimant's adjusted gross income of [REDACTED] is determined by subtracting the standard deduction of \$144 from her total income. The Claimant's excess shelter deduction of [REDACTED] is determined by adding her monthly housing expense of [REDACTED] to the heat and utility standard of \$555 under the Low Income Home Energy Assistance Program, and subtracting half of her adjusted gross income.

The Claimant's net income of [REDACTED] is determined by subtracting her excess shelter deduction from her adjusted gross income. A claimant with a group size of four and a net income of [REDACTED] is entitled to a FAP allotment of [REDACTED], which is the amount of FAP benefits granted to the Claimant for this period. RFT 260. I find that the Department has established that it acted in accordance with policy determining Claimant's FAP allotment for June of 2010.

The Department completed a FAP budget to determine the Claimant's FAP allotment for September of 2010. The Claimant receives monthly unearned in the gross monthly amount of [REDACTED]. The Claimant does not dispute this amount. The Claimant's adjusted gross income of [REDACTED] is determined by subtracting the standard deduction of \$144 from her total income. The Claimant's excess shelter deduction of [REDACTED] is determined by adding her monthly housing expense of [REDACTED] to the heat and utility standard of \$555 under the Low Income Home Energy Assistance Program, and subtracting half of her adjusted gross income.

The Claimant's net income of [REDACTED] is determined by subtracting her excess shelter deduction from her adjusted gross income. A claimant with a group size of four and a net income of [REDACTED] is entitled to a FAP allotment of [REDACTED], which is the amount of FAP benefits granted to the Claimant for this period. RFT 260. I find that the Department has established that it acted in accordance with policy determining Claimant's FAP allotment for September of 2010.

The Claimant argued that her monthly expenses increased after moving because her heat and electric expenses were no longer included in her monthly shelter expense. The Claimant argued that it is unfair that an increase of her expenses should result in a decrease in her FAP allotment.

The Claimant received the standard heat and utilities deduction in her FAP budget before moving to her new home on July 1, 2010. Under the Low Income Home Energy Assistance Program effective March 1, 2010, the Department has applied the standard \$555 heat and utility deduction towards the budget of FAP recipients regardless of their actual housing expenses. The Claimant continues to receive this same deduction since moving to her new home. The Department does not consider the Claimant's actual utility expenses, but applies a standard amount to all FAP recipients. For FAP budgeting purposes, the Claimant's total monthly shelter expenses decreased by [REDACTED] because of the decrease in her rent expense.

Based on the evidence and testimony available at the hearing, the Department has established that it acted in accordance with policy when it determined the 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: 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.

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:

