

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: 201051873
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 30, 2010
Genesee 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 31, 2010. After due notice, a telephone hearing was held on Thursday, September 30, 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.
2. The Claimant submitted a Semi-Annual Contact Report and reported that her daughter (d.o.b. [REDACTED]) was living in her household. Department Exhibit 7.
3. The Claimant receives monthly earned income in the gross monthly amount of \$ [REDACTED] Department Exhibit 9.
4. The Claimant's daughter receives monthly earned income in the gross monthly amount of \$ [REDACTED] Department Exhibit 18.
5. The Claimant has a monthly shelter expense of \$ [REDACTED] Department Exhibit 20.

6. On August 21, 2010, the Department notified the Claimant that her monthly FAP allotment would increase to \$ [REDACTED] Department Exhibit 1.
7. The Department received the Claimant's request for a hearing on August 31, 2010, protesting the amount of her monthly 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).

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 more 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.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons reside in an eligible living situation. BEM 212. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child has his/her own spouse or child who lives with the group. BEM 212. A member addition that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member deletion. BEM 212.

The Claimant was receiving FAP benefits when she submitted a Semi-Annual Contact Report to the Department and reported that her daughter was living in her household. The Claimant's daughter was 19-years-old when the Claimant reported the change, and she is a mandatory member of the Claimant's FAP group.

The Claimant receives monthly earned income in the gross monthly amount of \$ [REDACTED]. This amount was determined by multiplying her \$ [REDACTED] gross bi-weekly income by the 2.15 conversion factor as directed by BEM 515. The Claimant receives monthly earned income in the gross monthly amount of \$ [REDACTED]. This was determined by taking the average of the weekly paychecks in the gross amount of \$ [REDACTED] on July 2, 2010, and \$ [REDACTED] on July 9, 2010, and multiplying this amount by the conversion factor of 4.3 as directed by BEM 515. The Claimant's combined group income of \$ [REDACTED] was reduced by a 20% earned income credit and a \$ [REDACTED] standard deduction to determine her adjusted gross income of \$ [REDACTED]. The Department determined an excess shelter deduction of \$ [REDACTED] by adding a \$ [REDACTED] shelter expense to the standard \$ [REDACTED] heat and utility deduction under the Low Income Home Energy Assistance Program and subtracting half of the adjusted gross income. Since this excess shelter deduction is greater than the shelter maximum for non-disabled FAP groups, the Department applied the maximum excess shelter deduction of \$ [REDACTED] to the Claimant's FAP budget. BEM 556.

The Claimant's net income of \$ [REDACTED] was determined by subtracting her excess shelter deduction from her adjusted gross income. A claimant with a group size of two 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.

The Claimant argued that she is responsible for paying heat and utility expenses separate from her monthly shelter expenses. The Claimant argued that the Department did not use these expenses to determine her FAP allotment.

The Department included the standard \$ [REDACTED] heat and utility deduction in the Claimant's FAP budget. Actual utility expenses are not included in the FAP budget, except for certain installation charges that were not reported by the Claimant. BEM 554.

The Department included a housing expense of \$ [REDACTED] in the Claimant's FAP budget. The Claimant submitted a lease that indicates that she is responsible for a monthly rent payment of \$ [REDACTED]. The Department's representative testified that both the Claimant and her daughter are each responsible for a monthly shelter expense of \$ [REDACTED] with a group shelter expense of \$ [REDACTED]. The evidence available during the hearing does not support this claim.

The Department has not established that it properly determined the Claimant's monthly FAP allotment because it has not properly established the Claimant's monthly shelter expense.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has not established that it properly determined the Claimant's monthly FAP allotment.

Accordingly, the Department's FAP eligibility determination is REVERSED. It is further ORDERED that the Department shall:

1. Allow the Claimant to clarify the FAP group's monthly shelter expense.
2. Initiate a determination of the Claimant's eligibility for FAP benefits as of September 1, 2010.
3. Provide the Claimant with written notification of the Department's revised eligibility determination.

_____/s/
Kevin

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

Date Signed: October 7, 2010

Date Mailed: October 8, 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/alc

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