

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.: 2010-51932
Issue No.: 3003/3019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 29, 2010
Wayne County DHS (49)

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 September 29, 2010. The claimant appeared and testified through his wife, [REDACTED]. [REDACTED], Assistant Payments Worker appeared on behalf of the department.

ISSUE

Did the Department properly deny the Claimant's application for food assistance (FAP) due to excess income?

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 applied for FAP benefits on December 3, 2010.
2. The Claimant's application listed the following income for the group of \$3117 which amount was confirmed by the Claimant.
3. The Claimant's FAP group consisted of 5 members; one member in the group was disabled. The FAP group was an SDV.
4. The Claimant's son who is 22 and lives with the group was included in the group.
5. The Claimant's housing expense was \$668 and the Claimant pays heat.

6. The Claimant's group was found ineligible for FAP benefits because their Net income of \$2866 exceeded the Net income limits for a FAP group of 5 members and therefore they were not eligible for benefits.
7. The Department properly computed the Claimant's excess shelter deduction to be \$0 allowance. The Department properly computed the housing expenses utilizing the correct rent of \$658 and a heating standard of \$555 for a total of \$1213.
8. The Department properly computed the Claimant's FAP group and included all the income for the entire group which totaled \$3036. The Department also correctly applied the correct standard deduction for a group of 5 of \$170 and determined the adjusted gross income to be \$2866.
9. Based of RFT260 which establishes food assistance eligibility based on net income a group of 5 members with a Net Income of \$2866 is not entitled to receive any benefits because the group income received is too high. The Department correctly determined that the Claimant's group net income of \$2866 exceeds the net income limit of \$\$2150. RFT260, page 19.
10. The Claimant requested a hearing on 8/25/10 protesting the denial of the claimant's food assistance application. The Department received it on August 31, 2010.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

In this case the Claimant is disputing the finding by the Department that the Claimant's group was not eligible to receive FAP benefits due to excess income. The Claimant's group income is required to be determined and all income in the group is to be counted. In this case the amount the Department used as gross unearned income was \$3064 which was less that the income confirmed by the Claimant's at the hearing based upon the December 2009 application. Claimant's total gross income is found by adding all

income received by the group which totals \$3117. As the amount used by the Department is less and it pulled the income from its system, the lower income amount will be used to review its decision.

BEM 556 also requires a standard deduction based on Claimant's FAP group size (5 persons) of \$170. Subtracting the standard deduction from \$3064 creates an adjusted gross income of \$2866. This calculation as presented by the Department is correct.

Claimant's housing expense is \$658 and by paying heat, Claimant receives the maximum \$555 utility standard expense. Claimant's total shelter expenses are calculated by adding her housing expenses credit with utility expenses. Claimant's total shelter expense is \$1213. The Department FAP budget is correct in this regard.

Claimant's excess shelter amount is \$0; the difference between Claimant's housing costs (\$1213) and half of Claimant's adjusted gross income $\$2866 \div 2 = \1433). In Claimant's circumstances, the excess shelter amount (\$0) ($\$1213 - \$1433 = 0$).

The lesser of the excess shelter costs or maximum shelter deduction is to be subtracted from Claimant's adjusted gross income to determine Claimant's net income. In the present case, Claimant's net income is \$2866 because there is no shelter deduction to be subtracted. Per RFT 260, page 19, the correct amount of FAP benefits for a group of 5 with a net income of \$2866 is \$0 per month. Simply put the Claimant's FAP group has more income after crediting the group with all the required deductions than is allowable and still be eligible to receive FAP benefits. The Department correctly denied the Claimant's application because its net income of \$2866 exceeded the net income limit of \$2150. If the Department had used the amount set out in the Claimant's application which was a higher gross income the result would have been the same, the Claimant's group is not eligible for FAP benefits because its net income would still exceed the net income limit of \$2150.

DECISION AND ORDER

The Administrative Law Judge based upon the above findings of fact and conclusions of law that the Department's denial of the Claimant's FAP application is correct and therefore must be AFFIRMED.



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

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Date Signed: 10/06/2010

Date Mailed: 10/06/2010

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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