

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.: 2011-13666
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: February 9, 2011
DHS County: Wayne (82-35)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37, and Claimant [REDACTED] request for a hearing. After due notice, a hearing was held by telephone on February 9, 2011. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS calculated Claimant's Food Assistance Program (FAP) benefits in accordance with its policies and procedures?

FINDINGS OF FACT

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

1. On June 29, 2010, Claimant began receiving FAP benefits from DHS.
2. On December 1, 2010 DHS calculated Claimant's monthly income at \$567, although data from the Unemployment Insurance Agency (UIA) indicated that her gross income was only \$471 per month.
3. On November 16, 2010, Claimant filed a Request for Hearing with DHS.

CONCLUSIONS OF LAW

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS

administers the FAP program pursuant to MCL 400.10, *et seq.*, and Michigan Administrative Code Rules 400.3001-400.3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The manuals provide the rules for DHS operations, and I refer to the manuals to determine what policies and procedures exist and should apply to this case.

In this case, the Department referred me to BEM 500, and I agree that it is relevant to this case and must be observed. BEM 500, "Income Overview," gives a definition of gross income and what the term encompasses:

INCOME OVERVIEW

DEFINITIONS

ALL TOA [TYPES OF ASSISTANCE]

Gross Income

Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives.

...

Garnishment or Other Withholding

Gross income includes amounts withheld from income which are any of the following:

- Voluntary.
- To repay a debt.
- To meet a legal obligation.

Some examples of amounts which may be withheld, but are still considered part of gross income are:

- Income taxes.
- Health or life insurance premiums.
- Medicare premiums.
- Union dues.
- Loan payments.
- Garnishments.
- Court-ordered or voluntary child support payments.

BEM 500, p. 1.

I have considered all of the testimony and evidence presented as a whole in this case. At the hearing, DHS presented evidence establishing that Claimant's monthly income for the proper time period was \$471. I find nothing in the record that explains how DHS arrived at the income figure of \$567 for Claimant. Accordingly I find and conclude that DHS policy requires DHS to recalculate Claimant's income. I find and determine that this is necessary in order to ensure that Claimant's FAP benefits are based on the correct amount of monthly income.

In conclusion, based on the above findings of fact and conclusions of law, I find and decide that DHS erred in its calculation of Claimant's countable income and shall be REVERSED. IT IS ORDERED that DHS shall reopen and recalculate Claimant's monthly income for the month of December 2010 and the preceding months, and provide retroactive supplemental benefits to Claimant for December 2010 and for any month previous to that in which Claimant's FAP benefits should have been greater.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines that DHS is REVERSED. IT IS HEREBY ORDERED that DHS shall reopen and recalculate Claimant's FAP benefits from June 1, 2010, to the present based on a corrected income figure or figures in accordance with DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 10, 2011

Date Mailed: February 14, 2011

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.

JL/pf

cc:

