

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: 201115443
Issue No: 3015
Case No: [REDACTED]
Hearing Date:
February 24, 2011
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on February 24, 2011. The claimant, [REDACTED] appeared and provided testimony.

ISSUE

Did the department properly reduce the claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. Claimant was receiving FAP at all times pertinent to this hearing.
2. On October 22, 2010, the department mailed Claimant a Verification Checklist (DHS 3503) requesting that she provide verification of her employment by November 1, 2010, in order that the department may determine her eligibility for FAP. (Department Exhibits 1-2).
3. On October 28, 2010, the department mailed Claimant a Notice of Case Action (DHS 1605) advising her that effective December 1, 2010, her FAP benefits would be reduced from \$ [REDACTED] per month to \$ [REDACTED] per month for the reason that her net earned income amount had changed to \$ [REDACTED] (Department Exhibits 3-4, 8-9).

4. On October 28, 2010, the department mailed Claimant a State Emergency Relief Decision Notice (DHS 1419) advising that her request for rent assistance had been denied for the reason that her shelter is not affordable according to SER requirements.
5. On November 11, 2010, Claimant requested a hearing contesting the department's reduction of her FAP benefits. (November 11, 2010, Hearing Request).
6. On January 11, 2011, Claimant requested a hearing contesting the department's denial of her State Emergency Relief (SER) application. (January 11, 2011, Hearing Request).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1)

Clients have the right to contest a department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

Because the department was not prepared to proceed on Claimant's hearing request regarding the denial of her SER application and because Claimant acknowledged that it was no longer an issue for her, this decision will not address that program.

The Food Assistance Program (FAP) was established pursuant to 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 400.30001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment 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 (AMP), 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.

In the instant case, Claimant is disputing the department's decision to reduce her FAP benefits from \$ [REDACTED] per month to \$ [REDACTED] per month, effective December 1, 2010, based on the department's determination that her net earned income amount had changed. During the hearing, the department was unable to explain how the earned income amount of \$ [REDACTED] used in the FAP budget that resulted in the decrease to Claimant's FAP benefits was determined. The department admitted the file contained no documentation such as paystubs, or explanation in the form of notes, explaining why or how the earned income amount of \$ [REDACTED] was arrived at or why it was used as the basis in decreasing Claimant's FAP benefits.

The Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, the department had no basis to and therefore improperly reduced Claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly reduced Claimant's FAP benefits as the department lacked support for its determination that Claimant's net earned income amount had changed.

Accordingly, the department's actions are REVERSED and the department shall reinstate Claimant's FAP benefits for the time period of December 1, 2010 through January 31, 2011 and shall immediately issue a supplemental check for any months she did not receive them if she was otherwise entitled to them.

It is SO ORDERED.

_____/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 25, 2011

Date Mailed: February 28, 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.

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.

SDS/alc

cc:

