

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.: 2011-15939
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: February 24, 2011
DHS County: Macomb (50-20)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) Sections 400.9 and 400.37 and Claimant [REDACTED] lack's request for a hearing. After due notice, a telephone hearing was held on February 24, 2011. Claimant appeared and testified. [REDACTED], Claimant's husband, appeared as a witness for Claimant. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS terminated Claimant's Food Assistance Program (FAP) benefits in accordance with DHS policy and procedure?

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 or about September 1, 2010, Claimant began receiving FAP benefits for a family group of three with one wage earner in the group.
2. On September 16, 2010, another group member, Claimant's daughter [REDACTED], became a wage earner.
3. On or about September 28, 2010, DHS terminated Claimant's FIP benefits to become effective on or about November 30, 2010.
4. On November 16, 2010, Claimant filed a Request for a Hearing with DHS.

CONCLUSIONS OF LAW

FAP was established by the United States Food Stamp Act of 1977 and is implemented by federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-3015. 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 administrative manuals are the policies and procedures DHS officially created for its own use. While the DHS manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policy is, I will examine whether it was in fact followed in this case.

In the DHS Hearing Summary prepared by DHS for this Administrative Hearing, DHS states that the legal authority for its action is BEM 500, "Income Overview." I agree that BEM 500 sets the legal standard for what is and is not income.

"Income" is defined in BEM 500 as follows:

Income means a benefit or payment received by an individual which is measured in money.... Unearned income is all income that is not earned.... 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.... Count all income that is **not** specifically excluded. BEM 500, p. 3 of 12 (bold print in original).

In this matter, Claimant asserts that her FAP benefits were terminated in error. At the hearing, Claimant testified that she believed that her daughter was excluded from the FAP group, that Claimant's FAP benefits did not include her daughter in the group, and that as a result, her daughter's income was erroneously included in the FAP calculation of family income. In response, DHS testified that it requested Claimant's daughter's Social Security information and when it was provided, she was included in the FAP group and Claimant's application was granted for a group of three persons.

I have reviewed all of the evidence and testimony in this matter in its entirety, and I agree with DHS that the FAP program requires that all earned income of the family group must be included in the FAP allotment calculations. I find and determine that DHS acted correctly by including Claimant's daughter's income as part of the group's income in the FAP calculations.

Based on my findings of fact and conclusions of law above, I AFFIRM DHS' action in this case. DHS need take no further action in this matter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines that DHS took appropriate action in calculating Claimant's FAP benefits based on the family group's income. The Department's action is AFFIRMED. The Department need take no further action.



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

Date Signed: March 2, 2011

Date Mailed: March 3, 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.

JL/pf

cc:

