

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. 201117279  
Issue No. 3015  
Case No. [REDACTED]  
Hearing Date: March 3, 2011  
District Wayne County DHS (17)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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 March 3, 2011. On behalf of Claimant, Claimant's spouse, [REDACTED] appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], and [REDACTED], appeared and testified.

**ISSUE**

Whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefits due to excess income.

**FINDINGS OF FACT**

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

1. Claimant was an ongoing FAP benefit recipient.
2. Claimant was part a FAP benefit group of three persons.
3. None of Claimant's FAP benefit group members are senior (over 60 years of age), disabled or a disabled veteran.
4. Claimant's FAP benefits were due for redetermination by 1/31/11.

5. Claimant returned a Semi-Annual Contact Report (DHS-1046) (Exhibit 1) to DHS on 12/28/10 which listed income for Claimant's spouse as employment income for [REDACTED]
6. Claimant did not list any self-employment income on the DHS-1046.
7. Claimant also submitted an Assistance Application to DHS on 7/10/10 which similarly listed no self-employment income and instead listed Claimant's spouse as an employee for [REDACTED]
8. Through various research (see Exhibits 3 and 4), Claimant's specialist later realized that Claimant's spouse was the owner of [REDACTED], not an employee.
9. Claimant subsequently submitted a 2009 tax return (Exhibit 5) listing gross income of \$42687 for [REDACTED]
10. Claimant did not submit any verification of self-employment expenses.
11. On an unspecified date, DHS terminated Claimant's FAP benefits due to excess income.
12. On 1/17/11, Claimant requested a hearing disputing the termination of FAP benefits.

### **CONCLUSIONS OF LAW**

The Food Assistance Program (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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RTM). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

DHS must periodically redetermine an individual's eligibility for benefit programs. BAM 210 at 1. A complete redetermination is required at least every 12 months. *Id.* FAP groups with countable earnings and a 12-month benefit period must have a semi-annual contact. *Id.* at 6. The semi-annual mid-certification contact must be completed and results certified in Bridges by the last day of the sixth month of the benefit period to affect benefits no later than the seventh month. The contact is met by receipt of a completed DHS-1046 (SACR) and required verifications. *Id.* at 7.

In the present case, there was no dispute that a redetermination of Claimant's FAP benefits led to the termination of Claimant's FAP benefits. Claimant disputed the termination of his ongoing FAP benefits. BEM 556 outlines the proper procedures for calculating FAP benefits.

The first step in the process is to calculate the FAP benefit group's gross monthly income so a gross income test can be performed. The gross income test is only applicable for groups without a senior, disabled or disabled veteran (SDV) member. BEM 556 at 3. Claimant's FAP benefits group is not an SDV group; thus, the gross income test must be performed. Claimant specifically disputed how DHS prospectively ascertained his gross employment income in calculating his FAP benefits.

It was not disputed that Claimant's spouse was self-employed. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. BEM 502 at 3. Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. *Id.*

It was not disputed that Claimant's gross income for 2009 was \$42687. It was also not disputed that Claimant's 2009 income was the best reflection of Claimant's income.

DHS gave Claimant a 25% self-employment expense reduction from Claimant's gross income because Claimant did not submit any self-employment expense verification. As stated above, self-employment expenses that exceed 25% may be considered but must be verified.

Claimant's spouse contended that DHS should have requested verification of the expenses prior to determining Claimant's countable self-employment income; DHS essentially did request the expenses. The Semi-Annual Contact Report (Exhibit 1) reads, "If anyone in your household is self-employed complete the information below. You must provide proof of income received and all expenses." It was not the DHS responsibility to inform Claimant to verify the expenses beyond the statement on the Semi-Annual Contact Report. It is found that DHS appropriately requested self-employment expenses from Claimant and that Claimant did not verify any expenses.

DHS appropriately determined Claimant's monthly gross earnings by dividing Claimant's gross income by 12. DHS then reduced Claimant's monthly gross self-employment income by 25%. It is found that DHS properly determined Claimant's countable self-employment income as \$2667/month.


If the group's monthly gross income exceeds the monthly gross income limits then the group is automatically denied FAP eligibility. BEM 556 at 3. The gross income test only considers gross income; thus, child support payments, rent, mortgage, utilities and other expenses are not a factor in the gross income test outcome.

The gross income limit for a group of three persons is \$1984. RFT 250 at 1. The FAP benefit group's gross income exceeded the gross income limits which properly resulted

in denial of FAP benefits based on income-eligibility. It is found that DHS properly terminated Claimant's FAP benefits due to excess income.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FAP benefits effective 1/31/11 due to excess income. The actions taken by DHS are AFFIRMED.

  
Christian Gardocki  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: 03/14/11

Date Mailed: 03/17/11

**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.

CG/dj

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