

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

[REDACTED]

[REDACTED]

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on [REDACTED]. After due notice, a telephone hearing was held on [REDACTED].

**ISSUE**

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) eligibility?

**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 was an ongoing Food Assistance Program (FAP) recipient.
2. The Department determined that the Claimant received bi-weekly unemployment compensation checks for [REDACTED] and the Claimant's spouse received two bi-weekly unemployment checks for [REDACTED].
3. The Department determined that the Claimant received earned income in the gross monthly amount of [REDACTED].
4. The Department determined that the Claimant was not eligible for FAP benefits as of [REDACTED] because his income exceeded the net income limit.
5. The Department received the Claimant's request for a hearing on [REDACTED], protesting the Department's FAP eligibility determination.

## CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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 (DHS or Department), administers the FAP program pursuant to MCL 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties 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 (AMA), 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.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505.

The Department has the burden of proving that its actions were a proper application of its policies. The Department had a duty to present the following:

- An explanation of the action(s) taken.
- A summary of the policy or laws used to determine that the action taken was correct.
- Any clarifications by central office staff of the policy or laws used.
- The facts which led to the conclusion that the policy is relevant to the disputed case action.
- The DHS procedures ensuring that the client received adequate or timely notice of the proposed action and affording all other rights. BAM 600.

The Department completed a FAP budget including bi-weekly unemployment compensation benefits for the Claimant o [REDACTED] and two bi-weekly unemployment benefits for the Claimant's spouse o [REDACTED]. Based on the Department's figures, the Claimant and his spouse received an average bi-weekly unemployment compensation benefit o [REDACTED]. Multiplying these bi-weekly benefits by the monthly conversion factor of 2.15 determines monthly benefit amount of \$891 and [REDACTED]

However, the Department's FAP budget includes monthly unearned income in the gross monthly amount of [REDACTED]. The Department has failed to establish that it properly determined the Claimant's eligibility for FAP benefits because it failed to explain how it determined the Claimant's monthly unearned income.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has failed to establish that it properly determined the Claimant's eligibility for the Food Assistance Program (FAP).

Accordingly, the Department's Food Assistance Program (FAP) eligibility determination is REVERSED. It is further ORDERED that the Department shall:

1. Initiate a determination of the Claimant's eligibility for Food Assistance Program (FAP) as o [REDACTED]
2. Provide the Claimant with written notification of the Department's revised eligibility determination.

3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

\_\_\_\_\_/s/\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

Date Signed: \_\_\_\_\_

Date Mailed: \_\_\_\_\_

**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.

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