

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: 201120688
Issue No: [REDACTED]
Case No: [REDACTED]
Hearing Date:
March 24, 2011
Bay County DHS

ADMINISTRATIVE LAW JUDGE: **Vicki L. Armstrong**

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 received on January 7, 2011. After due notice, a telephone hearing was held on March 24, 2011. Claimant personally appeared and provided testimony.

ISSUE

Did the department properly determine Claimant's eligibility for 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. On December 3, 2010, Claimant applied for FAP benefits.
2. On December 7, 2010, the department mailed Claimant a Verification Checklist (DHS 3503) requiring Claimant to submit proof of, among other things, his self employment, such as his recent business receipts, recent accounting or other business records, recent income tax return or income tax records with receipts. The department included with the Verification Checklist three Self-Employment Income and Expense Statement forms (DHS 431), requiring Claimant to provide information about his household's self-employment income and expenses for the months of September, October, and November 2010. These items were due to the department on December 17, 2010. (Department Exhibits 1-8).

3. On December 20, 2010, Claimant submitted proofs requested by the department in the Verification Checklist, including Schedule C (Profit or Loss From Business) of his 2009 1040 Federal Tax return which indicated Claimant's gross income for 2009 was \$22,480.00. Claimant also submitted one Self-Employment Income and Expense Statement form which indicated that Claimant's gross income for the months of September, October, and November 2010 was \$6,246.00 however, the corresponding receipts Claimant submitted for this time period did not support this amount. (Department Exhibits 9-23).
4. On December 22, 2010, the department mailed Claimant a Notice of Case Action (DHS 1605), advising him that, effective January 1, 2011, his FAP benefits were being reduced to \$17.00 per month based on his calculated monthly income of \$610.00. (Department Exhibits 24-29).
5. On January 1, 2011, Claimant requested a hearing contesting the department's reduction of his FAP benefits.

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 affective eligibility for benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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).

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. This includes completion of the necessary forms. Clients who are able to but refuse to provide necessary information or take a required action are subject to penalties. BAM 105. Clients must take actions within their ability to obtain verifications. BAM 130; BEM 702. Likewise, DHS local office staff must assist clients who ask for help in completing forms. BAM 130; BEM 702; BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. The department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. If the client is unable to provide the verification despite a reasonable effort, the department must extend the time limit at least once. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130.

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.

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.

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.

Countable earnings from self-employment equal the total proceeds minus allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income except for farm loss amounts. Allowable expenses are the higher of: (i) 25% of the total proceeds; or (ii) actual expenses if the client chooses to claim and verify the expenses. BEM 502.

The FAP program provides a deduction from earned income of 20%. A standard deduction from income of \$141 is also allowed. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$300.00 for non-senior/disabled/veteran households. BEM 500 and 554; Program Reference Manual, Table 255; 7 CFR 273.2.

In the instant case, Claimant is disputing the department's reduction of his FAP benefits based on the department's calculation of his monthly income of \$610.00. Claimant admitted at the hearing, however, that he did not submit the appropriate documentation

to the department to support his reported gross self-employment earnings of \$6,246.00 or his reported self-employment expenses of \$4,178.00 for the months of September, October, and November 2010. Consequently, the department necessarily relied upon the annual gross self-employment income of \$22,480.00 reported by Claimant in his 2009 Federal Tax return to determine a monthly average prospective income of \$1,873.33. And, because Claimant also admittedly failed to verify his self-employment expenses, a 25% deduction (of \$468.00) was subtracted from Claimant's countable income, resulting in a monthly self-employment income of \$1,405.00. Per department policy, this amount was further reduced by a 20% earned income deduction of \$281.00 and a standard deduction of \$141.00, which left an adjusted gross income of \$983.00.

An excess shelter deduction is determined by adding Claimant's monthly housing expenses to the \$588.00 standard heat and utility deduction, and subtracting from that half of Claimant's adjusted gross income. Claimant's monthly housing expense was \$275.61 which was added to the \$588.00 standard heat and utility deduction for a total of \$864.00. Half of Claimant's adjusted gross income of \$983.00 is \$491.00. This is subtracted from Claimant's housing and utilities for an excess shelter deduction of \$373.00. Finally, the excess shelter deduction is subtracted from Claimant's adjusted gross monthly income of \$983.00, leaving a monthly net income of \$610.00.

A claimant with a group size of 1 and a monthly net income of \$610.00 is entitled to \$17.00 per month in FAP benefits. RFT 260. This Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, the department acted in accordance with policy in reducing 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 acted in accordance with policy in reducing Claimant's FAP benefits.

The department's actions are AFFIRMED.

It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 25, 2011

Date Mailed: March 25, 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.

VLA [REDACTED]

cc: [REDACTED]