

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.: 2011-21378
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: March 24, 2011
DHS County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37, and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on March 24, 2011. Claimant appeared and testified. [REDACTED]

[REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly awarded Food Assistance Program (FAP) benefits to Claimant?

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. In 2010, Claimant received Medical Assistance (MA or Medicaid) benefits with a required Patient Pay Amount (PPA, spend-down or deductible) of \$1,492 per month.
2. Also in 2010, Claimant received FAP benefits from DHS.
3. In about December 2010, DHS communicated to Claimant that effective February 1, 2011, his FAP benefits would close based on his countable (net) income, which was higher than the maximum allowable income needed to qualify for FAP benefits.
4. On January 6, 2011, a State of Michigan Department of Human Services Administrative Hearing was held before an Administrative Law Judge from the

State Office of Administrative Hearings and Rules. The Judge ordered DHS to recalculate Claimant's eligibility for FAP benefits and consider Claimant's December 2010 medical expenses

5. On January 26, 2011, Claimant filed a notice of hearing request with DHS.
6. On February 9, 2011, DHS issued a Notice of Case Action denying FAP benefits to Claimant based on his countable net unearned income of \$1,253.

CONCLUSIONS OF LAW

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers the FAP program pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-400.3015. 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 manuals provide the structure of DHS operations, and I refer to the manuals to determine what policies and procedures are in place and must be applied in this case. First, I refer to BEM 500, which provides a definition for the word "income:"

INCOME OVERVIEW

DEFINITIONS

ALL TOA [TYPES OF ASSISTANCE]

Income

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if **not** paid directly such as income paid to a representative.

Countable Income

Countable income is the amount remaining after applying policy in this and other income-related manual items. This is the amount used to determine eligibility and benefit level.

...

Unearned Income

Unearned income is all income that is not earned. BEM 500, p. 3 (bold print in original).

Unearned income is described in BEM 500 as “all income that is not earned.” Unearned income is discussed in detail in BEM Item 503, “Income, Unearned.” BEM 503 identifies all of the types of unearned income, it defines each type, and it indicates for each type of unearned income whether it is included as countable income for the different types of assistance (TOA). *Id.*, p. 3; BEM 503, p. 1.

The fifty-one categories of unearned income are: accelerated life insurance payments, adoption subsidies, Agent Orange payments, alien sponsor income, American Indian payments, annuity income, black lung, child allocation, child foster care payments, child support, death benefits, donations/contributions, educational assistance (not work study), factor concentrate litigation settlement (*Walker vs Bayer*), Filipino Veterans Equity Compensation Fund, flexible benefits, foster grandparents, government aid (including Medicaid), home equity conversion plans, individual development accounts, insurance payments for medical expenses, interest and dividends directly to client, Japanese and Aleut payments, jury duty, lease of natural resources, loan proceeds, Michigan Rehabilitation Services payments, military allotments, Nazi Victims Compensation, Older American Volunteer Program, radiation exposure compensation, **Railroad Retirement Board benefits**, Retired Senior Volunteer Program (RSVP), retirement income-other, Retirement, Survivors and Disability Insurance (RSDI) (AKA Social Security benefits), Ricky Ray Hemophilia Relief Act, sale of property in installments, SCORE or ACE, sick and accident insurance payments, spousal support, strike benefits, Supplemental Security Income (SSI), tax refunds and tax credits, trust payments, unemployment benefits, urban crime prevention, U.S. Civil Service and Federal Employee Retirement System, veterans benefits, VA pension and compensation, workers compensation, and Youthbuild. *Id.*, pp. 2-28 (emphasis added).

Based on BEM 500 and 503, DHS is clearly required to count Claimant’s income from the Railroad Retirement Board as unearned income for purposes of FAP eligibility calculations. At the Administrative Hearing, Claimant testified that because he has a PPA of \$1,492, he is putting all of his income into his medical expenses, and has no money left to pay for food. I find and determine that Claimant, in effect, seeks to have the \$1,492 deductible deducted from his countable income, whether or not he spends it or incurs medical bills in that amount. I find nothing in the DHS manuals which allows for an automatic PPA deduction when calculating countable FAP income.

I have reviewed the benefit calculations made in this case, and I find and determine that DHS used a \$227 medical deduction to calculate Claimant’s FAP countable income.

2011-21378/JL

Claimant did not present evidence of additional medical expenses at the hearing. Accordingly I find that DHS' calculation is correct and shall be AFFIRMED.

In conclusion, in reaching my decision, I have reviewed all of the testimony and evidence in this case. I find and determine that DHS properly followed its own definition of income and properly closed Claimant's FAP benefits. DHS is AFFIRMED as to its termination of FAP benefits to Claimant on February 9, 2011.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines that DHS is AFFIRMED. DHS need take no further action in regard to this case.



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

Date Signed: April 6, 2011

Date Mailed: April 13, 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:

