

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: 201122525
Issue No: [REDACTED]
Case No: [REDACTED]
Hearing Date:
April 7, 2011
Kalamazoo 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 February 7, 2011. After due notice, a telephone hearing was held on April 7, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly determined Claimant's Food Assistance Program (FAP) and Family Independence Program (FIP) 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. Claimant was receiving FAP and FIP at all times pertinent to this hearing.
2. Claimant's Senior/Disabled/Veteran (SDV) group size is 3.
3. Claimant received Retirement, Survivors and Disability Insurance (RSDI) in the amount of \$772.00 a month. (Department Exhibit 4).
4. Claimant submitted a hearing request on February 7, 2011, requesting an increase in her FAP and FIP benefits. (Request for a Hearing).

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) 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) and the Bridges Reference Manual (BRM).

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.

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.

In this case, Claimant does not dispute the amount of earned and unearned income the department used in determining Claimant's FAP eligibility. Claimant testified that she needs more than the \$418.00 she currently receives based on her FAP group composition of three because she runs out of groceries for her twelve and fifteen year old granddaughters before her next monthly FAP benefit is due.

Federal regulations at 7 CF 273.10 provide standards for income and the amount of household benefits. In accordance with the federal regulations, the department has prepared income and issuance tables which can be found at RFT 260. This issuance table provides that a household size of three with a net income of \$360.00 is entitled to a \$418.00 FAP allotment. Therefore, the department's FAP eligibility determination was correct based on Claimant's undisputed income.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or Department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. 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).

The FIP eligibility determination group, (EDG) means those individuals living together whose information is needed to determine FIP eligibility. The FIP EDG participation status explains the role the individual plays in the FIP eligibility determination. Individuals having a FIP EDG participation status other than Excluded Adult or Excluded Child, are included in the FIP EDG. A person other than a legal parent or stepparent may be a caretaker only when the dependent child has no legal parent or stepparent in the home. BEM 210. In this case, Claimant is the dependent's grandmother and hence, caretaker, because there is no legal parent or stepparent in the home.

When FIP eligibility is based solely on the presence of a child placed in the home by children's services, the adult is in the FIP EDG for relationship purposes, but cannot be in the FIP certified group. FIP for court-ordered unrelated caregivers is limited to the ineligible grantee payment standard.

In accordance with policy, Claimant is an in-eligible grantee and is entitled to \$274.00 a month in FIP benefits which the department properly calculated. If the department were to include Claimant in the FIP group, then Claimant's RSDI income would also have to be counted and Claimant would have excess income and not be eligible to receive the FIP benefit of \$274.00. Therefore, the department properly determined Claimant's status as an ineligible grantee of the FIP program with two dependents and thus Claimant correctly receives \$274.00 in FIP benefits. RFT 210.

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 determining Claimant's FAP and FIP eligibility.

The department's FAP and FIP eligibility is AFFIRMED.

It is SO ORDERED.

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

Date Signed: April 13, 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.

VLA [REDACTED]

cc: [REDACTED]