

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 23059

Issue No: 3015

Case No: [REDACTED]

Hearing Date:

[REDACTED]

Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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. After due notice, a hearing was held on [REDACTED]. The Claimant appeared and testified on her own behalf. [REDACTED], ES appeared on behalf of the Department.

ISSUE

Whether the claimant's application for the Food Assistance Program ("FAP") was properly denied due to excess income.

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 applied for FAP benefits on [REDACTED]
- (2) The Department denied the Claimant's application due to the earned and unearned income exceeding the income limit for a group of 3 persons.
- (3) At the time the Department denied the application, the income limit was [REDACTED]

- (4) The Claimant received a last check from her employer in the amount of [REDACTED] on [REDACTED]. The Department correctly included this amount as earned income when determining the Claimant's eligibility for FAP when computing the gross income test. Exhibit 1 (pay stub) and 5 (Fap gross income test).
- (5) The Claimant received unemployment benefits in the amount of [REDACTED] during [REDACTED]. The Department correctly included this amount as unearned income when determining the Claimant's eligibility for FAP. Exhibit 4
- (6) The Claimant also had self employment income from four income producing rental properties. The Department correctly granted the 25% allocation for expenses and did not calculate the actual expenses associated with the properties.
- (7) The Claimant requested a hearing on [REDACTED], protesting the denial of her FAP application. The application was received by the Department on [REDACTED]

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).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included, unless specifically excluded. BEM, Item 500

In this case, the Administrative Law Judge has reviewed the FAP budget and the exhibits regarding the earned income received and the unearned income received by the Claimant's FAP group and finds that the Department properly computed the claimant's gross earned income (from employment [REDACTED] and unearned income ([REDACTED] unemployment benefits). All the gross income must be counted and in this case totals [REDACTED]. BEM 500. Per RFT 250 the income limit for a FAP group of 3 members is [REDACTED] and thus the claimant is not eligible for FAP benefits because the FAP group's gross income exceeds the income limit. These two incomes alone disqualify the Claimant from being eligible for FAP benefits due to excess income exceeding the eligibility limit.

It must be noted that the Department should have considered the Claimant's actual expenses with regard to its computation of self employment income derived from the rental properties as the Claimant's actual expenses may have been higher than the 25% it utilized to determine expenses. BEM 502 directs how self employment income is to be determined and allows an expense deduction of 25% of the gross income, or actual expenses as demonstrated by receipts, whichever amount is **higher** if the client chooses to claim and verify expenses. BEM 502, Page 3. Emphasis supplied. Because the claimant supplied and documented actual expenses the claimant should have been allowed to claim and verify actual business expenses to determine if they

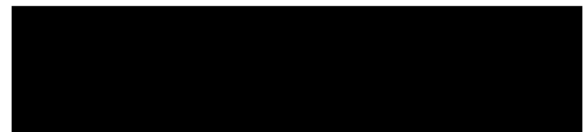
were the higher amount. Notwithstanding this issue the Claimant's earned and unearned income combined without adding the self employment income exceeds the gross income limit as stated above, and any advantage which might have been gained by using actual expenses does not change the outcome.

The Administrative Law Judge must find that the Department's determination that the Claimant's group is not eligible for FAP as the group gross income exceeds the monthly income limit is correct. RFT 250. The Administrative Law Judge has reviewed the original determination and gross income test budget and found no significant errors. Therefore, the undersigned finds that the Department correctly determined the claimant's FAP application should have been denied due to excess income and is affirmed. The Claimant is urged to reapply for FAP benefits if her situation has changed and her income is less.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to deny the Claimant's FAP application was correct.

Accordingly, the Department's decision, denying the Claimant's FAP application is due to the group's gross income exceeding the gross income limit, is AFFIRMED.



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

Date Signed: 04/28/11

Date Mailed: 05/02/11

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.

LMF/dj

cc:

[REDACTED]
Macomb County DHS (Dist #20)

[REDACTED]
Administrative

Hearings