

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

IN THE MATTER OF:

Issue

[REDACTED]

DHS

Reg. No.: 201123392

No.: 3002

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date: April 4, 2011

County:

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 telephone hearing was held on April 4, 2011. Claimant appeared and testified via three-way telephone conference. The Department of Human Services (Department) was represented by R [REDACTED] Assistance Payments Supervisor and [REDACTED] Assistance Payments Worker.

ISSUE

Was the Department correct in its decision to deny Claimant's Food Assistance Program (FAP) application?

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 applied for FAP on January 10, 2011.
2. Claimant's spouse received earned income of \$1,025.39 on December 31, 2010 and \$1,055.92 on January 14, 2011.
3. Claimant's spouse received pay checks every two weeks.
4. Claimant did not receive verifiable income at the time of the application.
5. Claimant was in a group size of two.

6. Claimant's FAP application was denied on January 20, 2011, due to "Gross income exceeds limit."
7. Claimant requested a hearing, protesting the denial.

CONCLUSIONS OF LAW

FAP 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 administers the FAP program pursuant to CML 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 Program Reference Manual, which includes the Reference Tables (RFT).

In Bridges, a group's financial eligibility is determined by using the following formula:

Actual income (income that was already received).

Prospected income amounts (not received but expected).

Only **countable** income is included in the determination; see BEM 500.

Each source of income is converted to a **standard monthly amount**, unless a full month's income will not be received; see standard monthly amount in this item.

Available income: Income actually received or reasonably anticipated. Reasonably anticipated means that the amount of income can be estimated and the date of receipt is known. Available income includes garnisheed amounts and income received jointly; see BEM 500.

Stable income: Income received on a regular schedule that does not vary from check to check based on pay schedules or hours worked. Examples: a job in which the paycheck amounts don't vary and are paid on a regular schedule; or RSDI or SSI.

Determine budgetable income using countable, available income for the benefit month being processed.

Past Months

Use past income to prospect income for the future unless changes are expected:

Use income from the **past 30 days** if it appears to accurately reflect what is expected to be received in the benefit month.

The 30-day period used can begin up to 30 days before the interview date or the date the information was requested.

Stable and Fluctuating Income

Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

Multiply biweekly income by 2.15.

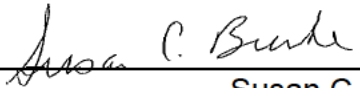
BEM 505

The Reference Table (RFT) is used to determine whether the claimant's income exceeds allowable income. FAP groups are categorically eligible based on enhanced authorization for Domestic Violence Prevention Services. BEM 213. RFT 250 mandates that a group size of two has an income limit of \$2,430.00, using monthly categorical income.

In the present case, Claimant's spouse's average biweekly gross income was \$1,040.00, based on the pay stubs submitted. The countable gross income is calculated by multiplying the average biweekly income by 2.15. BEM 505 p 6-7. Claimant's spouse's countable gross income is, therefore, \$2,236.00. The Department stated at hearing that Claimant earned income, but Claimant disputed the amount budgeted by the Department. Claimant testified credibly that he worked only sporadically, and is no longer working. The Department could not substantiate its use of the amount it used as Claimant's income. Since the Department satisfactorily justified Claimant's spouse's income, that income is used for purposes of this hearing. Since Claimant's spouse's gross income does not exceed the RFT 250 allowable amount of \$2,430.00 for a group size of two, the Department was incorrect in denying Claimant's FAP application for the reason that the gross income exceeded the limit.

DECISION AND ORDER

Based upon the above findings of fact and conclusions of law, it is concluded that the Department was not correct in its decision to deny Claimant's application for FAP. It is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that Claimant's FAP application be reinstated and reprocessed with the application date of January 10, 2011. It is further ORDERED that any missed payments shall be made in the form of a supplement.



Susan C. Burke
Administrative Law Judge
for Maura 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.

SCB/hw

cc:

