

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-23745

Issue No: 3003

Case No: [REDACTED]

Hearing Date:

May 24, 2011

Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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, an in-person hearing was held on May 24, 2011. Claimant's two In-Person hearings (2011-23745 and 2011-29969) were combined for hearing purposes. Claimant personally appeared and testified.

The department was represented by Angie Webber (AP Supervisor), Felisha Gillies (ES), and Kevin Adams (ES).

ISSUES

- (1) Did DHS correctly budget claimant's earned income for FAP eligibility purposes even though claimant is serving an FAP IPV disqualification sanction for a Food Stamp overissuance?
- (2) Did the department correctly budget claimant's spouse's earned income for FAP eligibility purposes, even though a large portion of his earned income is garnished due to a non-payment of child support sanction?

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 24, 2010, claimant applied for FAP. The group size was four at the time of application.

- (2) On December 2010, claimant was employed as a substitute teacher for the [REDACTED]. Claimant's husband was employed at [REDACTED].
- (3) In December 2010, claimant's spouse's income was subject to a non-payment of child support garnishment.
- (4) Claimant was approved for FAP for December 2010. Her allotment was \$483, for a household size of four.
- (5) Claimant's FAP-IPV sanction took effect in December 2010. Based on the sanction, DHS reduced claimant's FAP group size from four to three.
- (6) DHS evaluated claimant's FAP eligibility for January as follows:

FAP Group Size	three
Claimant's monthly gross income (1/2011)	\$1,162
Spouse's monthly gross earned income (1/2011)	<u>\$1,273</u>
Total FAP Income (January 2011)	\$2,435

- (7) For the month of January 2011, the department's FAP gross income limit (group size of three) was \$1,984.
- (8) The department did not grant claimant a Food Stamp deduction for claimant's IPV sanction, and did not grant claimant a FAP child support deduction for claimant's spouse's non-payment of support garnishment (see BEM 500, page 2).
- (9) On January 25, 2011, Bridges (computer) sent claimant a DHS-1605, Notice of Case Action, stating that claimant was not eligible for FAP in January 2011 due to excess gross income.
- (10) On February 24, 2011, claimant requested 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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The department's FAP policy manual requires FAP applicants to meet the gross income test in order to qualify for benefits. See BEM 500, page 2.

In this case, claimant argued that her FAP budget for January 2010 was incorrect because the department budgeted her earned income, when she was a disqualified Food Stamp group member. Claimant also argued that the department incorrectly included her husband's earned income because he was subject to a non-payment of support garnishment in January 2010.

It is undisputed that claimant's gross earned income, for FAP eligibility purposes, in January 2011 was \$2,435. Likewise, it is undisputed that the FAP gross income limit for Group 3 in January 2011 was \$1,984. Claimant's gross income from January 2011 exceeded the DHS gross income limit for FAP eligibility for a household size of three.

The department has established, by competent, material and substantial evidence on the record that it acted in compliance with department policy when it decided that claimant was not eligible for FAP benefits in January 2011, due to excess gross income. Furthermore, claimant did not meet her burden of proof to show that the department's denial of her FAP application was reversible error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly denied claimant's FAP application, due to excess gross income in January 2011.

Accordingly, the department's action is, hereby, AFFIRMED.

SO ORDERED



Jay W. Sexton
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 10, 2011

Date Mailed: June 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.

JWS/tg

cc:

