

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011 24030

Issue No: 3015

Case No: [REDACTED]

Hearing Date:

[REDACTED]

SSPC East DHS (98)

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 his own behalf. [REDACTED] Assistance Payments Worker appeared on behalf of the Department.

ISSUE

Whether the Department correctly denied the Claimant's Food Assistance ("FAP") application due to the Claimant's FAP group's monthly gross income exceeding the gross income limit.

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 online for FAP benefits on [REDACTED]
- (2) The Claimant's application was denied on [REDACTED] because the Claimant's gross income exceeded the monthly limit of [REDACTED]. Exhibit

- (3) The Claimant's application reported self employment income of [REDACTED].
- (4) The Department granted the Claimant a 25% deduction for business expenses. The business expense deduction used by the department was [REDACTED]. Exhibit 2 and Exhibit 3
- (5) The Claimant provided the Department business expenses in the amount of [REDACTED] and [REDACTED] and did not provide any other actual business expenses with receipts.
- (6) Claimant's FAP budget was computed and the Department determined the Claimant's monthly gross income of [REDACTED] exceeded the gross income limit of [REDACTED] found in RFT 250 for a 2 person FAP group. Exhibit 2.
- (7) Claimant filed for hearing on [REDACTED], questioning the denial of the application for Food Assistance based on the Department's calculation of self employment income.

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 finds that the Department properly computed the claimant's gross earned income from self employment exceeded the gross income limit. The gross income must be counted and in this case is [REDACTED]. BEM 500. The self employment income was provided by the claimant on the application and was reported as [REDACTED]

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. In this instance the department utilized the higher amount which was 25% of the gross income because the expenses provided by the Claimant were less.

Actual business expenses which can be claimed are:

- Allowable expenses include all of the following:
- Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.
- Interest and principal on loans for equipment, real estate or income-producing property.
- Insurance premiums on loans for equipment, real estate and other income-producing property.
- Taxes paid on income-producing property.
- Transportation costs while on the job (example: fuel).
- Purchase of capital equipment.
- A child care provider's cost of meals for children. Do **not** allow costs for the provider's own children.

- Any other identifiable expense of producing self-employment income except those listed below. BEM 502, Page 3.

Expenses which cannot be claimed are:

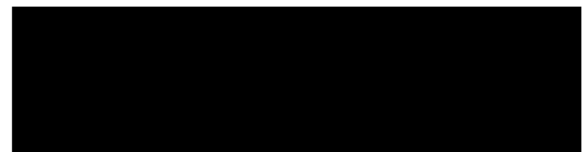
- A net loss from a previous period.
- Federal, state and local income taxes.
- Personal entertainment or other individual business expenses.
- Money set aside for retirement.
- Depreciation on equipment, real estate or other capital investments.
- BEM 502, Pages 3 and 4.

Expenses must be verified by actual receipts. BEM 502, Page 6.

The Administrative Law Judge must find that the Claimant's group is not eligible for FAP as the group monthly gross income exceeds the monthly income limit. RFT 250. The Administrative Law Judge has reviewed the budget and found no errors. Therefore, the undersigned finds that the Department correctly denied the claimant's FAP application and its decision is AFFIRMED. The Claimant is encouraged to reapply for FAP benefits if it can be shown through properly document business expenses that the expenses are more than the 25% figure used by the Department. .

DECISION AND ORDER

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



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

Date Signed: 05/04/11

Date Mailed: 05/06/11

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:

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Hearings