

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

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 201124805
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: April 13, 2011
Wayne County DHS

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 the Claimant's request for a hearing. After due notice, a telephone hearing was held on April 13, 2011. The Claimant was present and testified. Claimant's spouse, [REDACTED] also testified. The Department of Human Services (Department) was represented by [REDACTED] FIM and [REDACTED] FI Worker.

ISSUE

Was the Department correct in its calculation of Claimant's Food Assistance Program (FAP) grant?

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 an ongoing FAP recipient in a household of five persons.
2. Claimant had an obligation for shelter, utilities and heat.
3. The Department determined Claimant's FAP grant effective March 1, 2011, without taking into account Claimant's current household income.

4. Claimant requested a hearing contesting the amount of the FAP grant on March 14, 2011.
5. Subsequently, the Department closed Claimant's case effective April 1, 2011.

CONCLUSIONS OF LAW

The Food Assistance Program (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 MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in BAM, BEM and PRM, which includes the Reference Tables (RFT).

The federal regulations define household income to include SSI and RSDI benefits, as well as earned income. 7 CFR 273.9(b) Only 80% of earned income is counted in determining FAP benefits. BEM 550. Under 7 CFR 273.9, as amended, and RFT 255, \$178.00 is deducted from the gross income of FAP recipients in a household of five in determining FAP grants. Under 7 CFR 273.9, deductions for excess shelter are also made. BEM 554.

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 five has an income limit of \$4,300.00, using monthly categorical income.

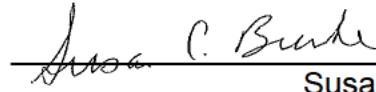
In the present case, the Department failed to take into account Claimant's current household income. Claimant testified credibly at hearing that his son's income decreased for the months of February and March of 2011, and the Department testified credibly that Claimant's spouse's unearned income was not included in its budget for March, 2011. Since the Department did not include the correct amount of income in its calculations, its decision regarding the FAP grant was not correct. In addition, the Department subsequently closed Claimant's FAP case effective April 1, 2011.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was not correct in its calculation of Claimant's FAP grant, and it is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that the Department shall reinstate Claimant's FAP case, effective March 1, 2011, and calculate Claimant's FAP grant using all factors allowed by Department policy. It is further ORDERED that any missed or increased payments will

201124805/ SCB

be made in the form of a supplement.



Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 3, 2011

Date Mailed: May 3, 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.

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cc:

