

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.: 20112501
Issue No.: 3015
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 17, 2010
Office: Oakland County DHS (04)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 November 17, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly determined that Claimant had excess income for Food Assistance Program (FAP) benefit eligibility.

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 benefits on 9/23/10.
2. Claimant is part of a six member household that includes herself, her spouse and four children for which she is guardian.
3. Claimant's spouse is over 60 years old.
4. Claimant has employment income of 40 hours/week at \$27.87/hour.
5. Claimant's spouse receives \$3200/month in unearned income.
6. Claimant is responsible for a \$2900/month mortgage.

7. On 9/25/10 DHS determined that Claimant's FAP group had excess income for FAP benefits.
8. Claimant requested a hearing on 10/5/2010 disputing the DHS denial of FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

Claimant contends that she is entitled to receive FAP benefits. Claimant had no specific reason why she was entitled, only that she believed that she was. BEM 556 outlines the proper procedures for calculating FAP benefits.

The FAP calculation begins with determining the FAP group's countable monthly income. Claimant stipulated that DHS accurately calculated her gross employment income as \$2229.60/two weeks. This amount is based on multiplying Claimant's biweekly hours (80) by her hourly rate of pay (\$27.87) as reported on Claimant's Assistance Application.

DHS converts biweekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 at 6. Multiplying Claimant's countable average biweekly income (\$2229.60) by 2.15 results in a monthly countable income amount of \$4793 (dropping cents). DHS gives an 80% credit for employment income making Claimant's countable income to be \$3834 (dropping cents).

For all programs, the gross amount of RSDI is countable income. BEM 503 at 20. Claimant testified that her spouse received approximately \$1500/month in gross RSDI income from Social Security Administration (SSA).

Claimant also agreed that her spouse received \$1700/month in retirement benefits. For all programs, DHS is to count the gross retirement benefit amount as unearned income. *Id.*

Claimant's total countable monthly income is calculated by adding her and her spouse's countable gross income. That amount is found to be \$7034/month.

Claimant's six-person group receives a standard deduction of \$204. RFT 255. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$6830.

Claimant conceded not having any child support, dependent care or medical expenses. Claimant testified she had a \$2900/month mortgage expense. Claimant was issued the maximum utility credit allowed by DHS policy, \$555. RFT 255. The rent expense is added to the utility expense to calculate Claimant's total monthly housing obligation of \$3455.

Claimant's excess shelter cost is the difference between Claimant's housing costs (\$3455) and half of Claimant's adjusted gross income. The excess shelter amount is found to be \$40.

Claimant's net income is determined by taking Claimant's adjusted gross income (\$6830) and subtracting the excess shelter cost (\$40). Claimant's net income is found to be \$6790. Based on a FAP group of six with a net income of \$6830, Claimant's FAP benefits amount is calculated to be \$0, the same as calculated by DHS. RFT 260 at 10. It is found that DHS properly denied Claimant's application for FAP benefits based on excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's FAP benefit application dated 9/23/10 due to excess income. The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: December 2, 2010

Date Mailed: December 2, 2010

20112501/CG

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.

CG/hw

cc:

