

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.: 201125759
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: April 20, 2011
Oakland 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 20, 2011. The Claimant was present and testified and was represented by Attorney Jacqueline Doig. The Department of Human Services (Department) was represented by [REDACTED] Assistance Payments Supervisor and [REDACTED] ES.

ISSUE

Was the Department correct in its decision to deny Claimant's Food Assistance Program (FAP) application based on net income exceeding the 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 for FAP on February 22, 2011.
2. Claimant had a gross income of \$1,839.00.
3. The Department determined that Claimant's net income was \$723.00.
4. The Department denied Claimant's application on March 14, 2011, due to net income exceeding the limit.

5. Claimant requested a hearing contesting the denial of Claimant's FAP application.

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. Under 7 CFR 273.9, as amended, certain deductions are allowed to arrive at a net income figure.

In the present case, the Department determined that Claimant had a net monthly income of \$723.00, which did not exceed the monthly income limit of \$903.00 that the Department cited in its Notice of Case Action of March 14, 2011. The Department at the hearing argued that Claimant's gross income of \$1,839.00 exceeded the gross income limit. However, the denial issued by the Department in its Notice of Case Action of March 14, 2011, spoke only to net income ineligibility. Since the Department denied Claimant's application based on net income exceeding the limit when, according to its own calculation, Claimant's net income of \$723.00 did not exceed the limit of \$903.00, the Department was incorrect in its denial of Claimant's FAP application.

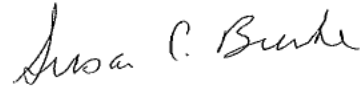
It is noted that Claimant requested the Department be notified that its computer system should be re-programmed and that the Department should take action to recalculate eligibility and correct underissuances, but those requests are beyond the scope of the jurisdiction of this Administrative Law Judge.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to deny Claimant's application for FAP due to net income exceeding the limit was incorrect and it is therefore ORDERED that its decision is REVERSED. It is further ORDERED that the Department shall reinstate and reprocess Claimant's application of February 22, 2011, and if Claimant is otherwise

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eligible, issue missed payments in the form of a supplement.



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

Date Signed: May 4, 2011

Date Mailed: May 4, 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:

