

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-26898
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: April 27, 2011
DHS County: SSPC-East

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on April 27, 2011. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether Claimant refused to cooperate with DHS in providing verification in support of her Food Assistance Program (FAP) application?

FINDINGS OF FACT

The Administrative Law Judge, based on competent, material, and substantial evidence in the record and on the entire record as a whole, finds as fact:

1. On January 19, 2011, Claimant applied for FAP benefits with DHS online.
2. Claimant's income consisted of \$30 in contributions from her aunt in the month of January.
3. Claimant's income is inconsequential income as defined in Bridges Eligibility Manual (BEM) 500, p. 6.
4. DHS granted expedited FAP benefits to Claimant for January 19-31, 2011 (\$83) and February 1-28, 2011 (\$200).

5. In February and March 2011, Claimant did not receive contributions from her aunt.
6. On March 5, 2011, DHS closed Claimant's FAP benefits effective March 1, 2011.
7. On March 18, 2011, Claimant filed a Request for a Hearing with DHS.

CONCLUSIONS OF LAW

FAP was established by the Food Stamp Act of 1977 and is implemented by Federal regulations in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-400.3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The manuals are the policies and procedures that DHS officially created for its own use. While the manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policy Item is, I will examine whether it was in fact followed in this case.

In this case, the applicable policy is BEM 500, "Income Overview." This manual Item presents the types of income that are and are not counted in DHS benefit calculations.

DHS excludes six items: inconsequential income, in-kind benefits, loans, diverted income from Social Security, reimbursements, and replacement money. These exceptions apply to all DHS benefits programs. BEM 500, pp. 6-7.

Inconsequential income is defined as:

[I]ncome that is unpredictable, irregular, and has no effect on continuing need. For example, occasional cash gifts.

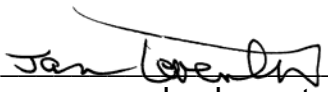
Do not enter inconsequential income in Bridges if the amount received during a calendar quarter is \$30 or less. Enter amounts in excess of \$30 per quarter using the appropriate LUW [Logical Unit of Work} and income type. *Id.*, p. 6.

In applying this manual Item to the case before me, I have reviewed all of the evidence and testimony as a whole. I find and conclude that in the first quarter of 2011 (January-March), Claimant's inconsequential income was \$30. Applying BEM 500, I find and conclude that this money is not countable income and must be excluded from DHS benefit calculations.

In conclusion, based on the above findings of fact and conclusions of law, I conclude and determine that DHS is REVERSED. DHS is ORDERED to reopen and reprocess Claimant's FAP benefits and provide Claimant with all supplemental retroactive benefits to which she is entitled. All steps shall be taken in accordance with all DHS policies and procedures.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that DHS is REVERSED. IT IS HEREBY ORDERED that DHS shall reopen and reprocess Claimant's FAP benefits and provide her with all supplemental retroactive benefits to which she is entitled. All steps shall be taken in accordance with DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 4, 2011

Date Mailed: May 5, 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.

2011-26898/JL

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.

JL/pf

cc:

