

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201127183

Issue No: 3002

[REDACTED]

Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on March 7, 2011. After due notice, a telephone hearing was held on [REDACTED]. The Claimant participated in the hearing and was also represented by his attorney. Through his attorney, the Claimant withdrew his hearing request with respect to the Department's determination of his eligibility for Child Development and Care (CDC) benefits.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) 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. The Claimant is an ongoing Food Assistance Program (FAP) recipient.
2. The Claimant is disqualified from participation in the Food Assistance Program (FAP) for not meeting citizenship/alien status requirements. The Claimant's children are eligible to participate in FAP.
3. The Claimant receives earned income.
4. The Claimant's children receive monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of [REDACTED] each.
5. The Department determined that the Claimant is eligible for a monthly Food Assistance Program (FAP) allotment of \$16.
6. The Department received the Claimant's request for a hearing on March 7, 2011, protesting the amount of his Food Assistance Program (FAP) allotment.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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 (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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505.

Bridges budgets a pro rata share of earned and unearned income of:

- A person disqualified for refusal to provide a social security number.
- A person disqualified for non-cooperation with child support requirements.
- A person disqualified for refusal to declare citizenship/alien status.
- A person disqualified for not meeting citizenship/alien status requirements.
- A person who does not meet time limited requirements.

Each source of income is prorated individually as follows:

1. The number of eligible FAP group members is added to the number of disqualified persons that live with the group.

2. Next the disqualified/ineligible person's income is divided by the number of persons in step 1.
3. Then the result in step 2 is multiplied by the number of eligible group members.

Do not apply these rules to the income of eligible group members, or non-group members. BEM 550.

In this case, the Claimant is an ongoing Food Assistance Program (FAP) recipient. The Claimant is disqualified from participation in the Food Assistance Program (FAP) for not meeting citizenship/alien status requirements, but his two children are eligible.

The Department determined that the Claimant received countable earned income in the gross monthly amount of \$1,063. The Department failed to establish how it determined this income amount. The Department's representative testified that the Claimant's earned income from the month of November was used to determine his eligibility for the Food Assistance Program (FAP). The Claimant received five paychecks in November of 2010, in the gross weekly amounts of \$400.34, \$180.44, \$297.30, \$341.97, and \$349.91. The average of these five paychecks is \$313.99, and when this amount is multiplied by the 4.3 conversion factor, it produces a monthly income of \$1,350. If this income is prorated for a household of three where one household member is disqualified, it produces a monthly income of \$900.11. This amount is different from the earned income used to determine the Claimant's eligibility for Food Assistance Program (FAP).

The Claimant's representative argued that the Department improperly failed to prorate the amount of unearned income used to determine eligibility for the Food Assistance Program (FAP).

The Department's representative argued that the Department does not prorate unearned income.

This Administrative Law Judge finds that neither party is correct in its interpretation of the relevant policy.

Bridges Eligibility Manual Item 550 requires that the Department budget a pro rata share of the income of a disqualified household member. The policy states that income is not prorated for the income of eligible household members.

Therefore, the Department correctly budgeted unearned income in the gross monthly amount of [REDACTED] in its determination of the Claimant's eligibility for the Food Assistance Program (FAP).

The Claimant's representative testified that the Department improperly failed to include dependent care expenses in its determination of the Claimant's eligibility for the Food Assistance Program (FAP). The Department failed to establish why no dependent care expenses were included in the FAP budget.

Based on the evidence and testimony available during the hearing, the Department has failed to established that it properly determined the Claimant's eligibility for the Food Assistance Program (FAP).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has failed to establish that it properly determined the Claimant's eligibility for the Food Assistance Program (FAP).

Accordingly, the Department's Food Assistance Program (FAP) eligibility determination is REVERSED. It is further ORDERED that the Department shall:

1. Initiate a determination of the Claimant's eligibility for Food Assistance Program (FAP) as of February 1, 2011.
2. Provide the Claimant with written notification of the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

_____/s/_____
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: __5/11/11_____

Date Mailed: __5/11/11_____

