

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No: 201130675
Issue No: 3014
Case No: ██████████

Hearing Date:
May 26, 2011
Genesee 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 April 20, 2011. After due notice, a telephone hearing was held on Thursday, May 26, 2011.

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 applied for Food Assistance Program (FAP) benefits on March 21, 2011.
2. The Claimant reported to the Department that he resides with two other people, and that they purchase and prepare food together. The two people living with the Claimant are not capable of preparing meals on their own.
3. Group member ██████████ was born on October 22, 1936.
4. Group member ██████████ receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$1,167.50.
5. Group member ██████████ receives a monthly pension in the gross monthly amount of \$709.22.

6. Group member [REDACTED]. receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$458.
7. On April 9, 2011, the Department denied the Claimant's application due to excess income.
8. The Department received the Claimant's request for a hearing on April 21, 2011, protesting the denial of his Food Assistance Program (FAP) application. The request was received 12 days after the Department sent its notice of case action.

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.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons resides in an eligible living situation. BEM 212.

A person at least 60 years old, his spouse and their children under 22 years of age may choose to be a separate group from those they live with, even if they purchase and prepare together, if:

- The person cannot purchase and prepare meals due to a permanent disability as determined by SSA or a non-disease-related permanent, severe disability; and
- The countable income of all the other people the senior impaired group lives with does not exceed 165% of the poverty level (see Reference Tables - RFT Item 250). BEM 212.

In this case, the Claimant applied for Food Assistance Program (FAP) benefits on March 21, 2011. The Claimant reported to the Department that he resides with two other people and that they purchase and prepare food together. The Department determined the Claimant's eligibility for benefits as a group of three based on the Claimant's statements.

The Claimant testified that the two people living with him are not capable of preparing meals on their own due to their age and disabilities. Group member [REDACTED] was born on October 22, 1936.

Group member [REDACTED] receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$1,167.50. Group member [REDACTED] receives a monthly pension in the gross monthly amount of \$709.22. Group member [REDACTED] receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$458.

The Claimant testified that he does not have a monthly shelter expense but instead provides assistance to his fellow benefit group members in exchange for a place to stay. The Claimant failed to report any housing expenses on his Food Assistance Program (FAP) such as home owners insurance and property taxes. Therefore the Department was unable to apply any housing expenses towards the Claimant's eligibility determination other than the standard heat and utility expense under the Low Income Home Energy Assistance Program.

No evidence was presented during the hearing that the Claimant reported any qualified medical expenses of his fellow group members. The Department was unable to apply any medical expenses, if any, toward the Claimant's eligibility determination.

The Department determined the Claimant's eligibility for the Food Assistance Program (FAP) based on the information the Claimant supplied on this application for assistance. The Department determined that the Claimant's group receives a gross monthly income of \$2,334. The Claimant's adjusted gross income of \$2,193 was determined by subtracting the standard deduction of \$141 for a group of three from their total income. The gross income limit for a group of three is \$1,984.

Group member [REDACTED] is over 60 years of age, and group member [REDACTED] is a Supplemental Security Income (SSI) recipient. The Claimant testified that these group members are not capable of preparing meals for themselves due to their age and disabilities. In addition, the gross income of these two people is less than 165% of the poverty level for a group of three, which is \$2,518. RFT 250.

Bridges Eligibility Manuel Item #212 permits persons over the age of 60, who cannot purchase and prepare meals due to a permanent disability, and whose countable income does not exceed 165% of the poverty level may choose to be a separate benefit group even if they purchase and prepare food together. This Administrative Law Judge

finds that the Department failed to establish that it properly determined the Claimant's benefit group composition.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to establish that it properly determined the Claimant's benefit group composition.

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 March 21, 2011.
2. Allow the Department to clarify his monthly housing expenses.
3. Provide the Claimant with written notification of the Department's revised eligibility determination.
4. 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: May 31, 2011

Date Mailed: June 1, 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.

KS/tg

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