

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 201135161
Issue No: 3026
Case No: [REDACTED]
Hearing Date:
June 22, 2011
Tuscola 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 May 11, 2011. After due notice, a telephone hearing was held on Wednesday, June 22, 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 is an ongoing Food Assistance Program (FAP) recipient as a group of four.
2. The Claimant's benefit group receives monthly self-employment income in the gross monthly amount of \$3,728.
3. The Department determined that the Claimant is eligible for a \$157 monthly allotment of Food Assistance Program (FAP) benefits.
4. The Department received the Claimant's request for a hearing on May 11, 2011, protesting the Department's determination of her income.

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.

Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income except for farm loss amounts. BEM 502.

Allowable expenses include all of the following:

- Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.
- Interest and principal on loans for equipment, real estate or income-producing property.
- Insurance premiums on loans for equipment, real estate and other income-producing property.
- Taxes paid on income-producing property.
- Transportation costs while on the job (example: fuel).
- Purchase of capital equipment.
- A child care provider's cost of meals for children. Do not allow costs for the provider's own children. BEM 502.

Expenses that are not allowable include the following:

- A net loss from a previous period.

- Federal, state and local income taxes.
- Personal entertainment or other individual business expenses.
- Money set aside for retirement.
- Depreciation on equipment, real estate or other capital investments. BEM 502.

In this case, the Department completed a budget to determine the Claimant's eligibility for the Food Assistance Program (FAP) based on a group income consisting of self-employment income in the gross monthly amount of \$3,728. The Department determined by taking the Claimant's reported gross annual self-employment income and dividing this amount by 12 months.

The Department reduces gross self-employment income for expenses using one of two methods. The Claimant is entitled to deduct actual expenses allowed by Bridges Eligibility Manual Item 502. The Department requires that the Claimant provide documentation to verify self-employment expenses.

If documentation of actual expenses is not submitted to the Department, the Department has the option of reducing gross self-employment income by a flat 25%. The Claimant did not submit verification of her actual expenses and the Department reduced the Claimant's income by 25% in this case.

The Claimant argued that her income tax return and the supporting document used to prepare her income tax return should be sufficient to determine her net self-employment income after expenses have been deducted. The Claimant submitted an accounting of transportation mileage, which she used to apply a standard allowable expense deduction on her income tax return.

However, since the Internal Revenue Service permits expenses to be deducted from gross income that the Department of Human Services does not include in its Food Assistance Program (FAP) eligibility determination, the Claimant's income tax return is insufficient to document her actual expenses.

This Administrative Law Judge finds that the Department properly applied its policies in its determination of the Claimant's monthly self-employment income.

The claimant's grievance centers on dissatisfaction with the Department's current policy and the Department's failure to accept the information from her federal income tax as verification of her countable income. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies.

[REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's Food Assistance Program (FAP) eligibility.

The Department's Food Assistance Program (FAP) eligibility determination is AFFIRMED. It is SO ORDERED.



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

Date Signed: June 27, 2011

Date Mailed: June 28, 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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