

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 201136052
Issue No: 3026
Case No: [REDACTED]
Hearing Date:
June 28, 2011
SSPC Central

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 8, 2011. After due notice, a telephone hearing was held on Tuesday, June 28, 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.
2. On February 22, 2011, the Department sent the Claimant a Verification Checklist form with a due date of March 1, 2011. The Department requested verification of the Claimant's self-employment income and expenses.
3. On March 1, 2011, the Claimant submitted a pack of material showing self-employment income, expenses, and bank statements for a three-month period.
4. The Claimant receives monthly self-employment income in the monthly amount of \$7,408.
5. On March 9, 2011, the Department denied the Claimant's application for the Food Assistance Program (FAP) due to excess income.

6. The Department received the Claimant's request for a hearing on April 8, 2011, protesting the denial of her Food Assistance Program (FAP) application. The request was received 30 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.

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.

The Claimant applied for Food Assistance Program (FAP) benefits claiming self-employment as her household's only source of income. The Department sent the Claimant a Verification Checklist form with a due date of March 1, 2011. The Department requested verification of the Claimant's self-employment income and expenses. The form included instructions to submit receipts to verify the self-employment expenses.

The Department determined the Claimant's eligibility for the Food Assistance Program (FAP) based on a countable income of \$7,408 per month. This was determined by taking a three-month average of her self-employment income.

For November of 2010, the Claimant reported self-employment income in the gross amount of \$6,858. The Claimant also reported self-employment expenses of \$12,186.94, resulting in a new loss of \$12,186.94. The Department does not allow some of the expenses the Claimant reported for November of 2010 to be deducted from gross income for the purposes of Food Assistance Program (FAP) budgeting. Among the expenses not authorized by policy are depreciation and bank service charge expenses. The Claimant submitted receipts as verification of gasoline expenses, payroll expenses, and an automotive expense. All other expenses reported by the Claimant were not verified by receipts and the Department was not able to deduct them from self-employment income. The Department was able to verify self-employment expenses totaling \$3,940.83 for November of 2010. Therefore, the Department determined the Claimant's countable self-employment income for November of 2010 to be \$6,858.

For December of 2010, the Claimant reported self-employment income in the gross amount of \$13,820.87. The Claimant also reported self-employment expenses of \$11,801.73, resulting in a net income of \$2,019.14. In addition to receipts for gasoline, the Claimant submitted receipts for oil, repair expenses, stamps, and equipment leasing. The Department was only able to verify expenses from the Claimant's receipts totaling \$3,213.75, leaving her with a net income of \$7,918.

For January of 2010, the Claimant reported self-employment income in the gross amount of \$11,842. The Claimant's countable income and expenses were determined in the same manner as the previous months, leaving her with countable income of \$5000.

The Department determines countable self-employment using one of two available procedures. The Department permits actual self-employment expenses to be deducted from gross self-employment income provided that the expenses are verified and allowable by Bridges Eligibility Manual Item 502. Where actual expenses are not reported to the Department, or where expenses cannot be verified, the Department will deduct a flat 25% expense from gross income.

In this case, the Claimant was able to verify expenses greater than 25% of gross income, but failed to verify all of her potentially allowable expenses. Based on the expenses that the Department was able to verify, the Claimant received monthly self-employment income of \$7,408. The gross limit for a group of five to receive Food Assistance Program (FAP) benefits is \$2,794. Therefore, the Department denied the Claimant's request for Food Assistance Program (FAP) benefits due to excess income.

The Claimant testified that she had relied on copies of her bank statement to verify her self-employment expenses. The Claimant testified that these bank statements list all of the expenses shown on her monthly profit & loss statements. The Claimant uses these bank statements in the normal course of the business including income tax returns.

Although the Claimant's documentation shows that she did not receive an income of \$7,408 per month, she failed to submit sufficient documentation to verify her self-employment expenses. Therefore the Department was unable to deduct these from her gross income and was required to consider the remainder as countable income. The Department considers all gross income when determining eligibility for benefits unless specifically exempted by policy.

The Claimant submitted copies showing her utility obligations and that she had applied for State Emergency Relief (SER) benefits. Since the Department found the Claimant's gross income to exceed the income limit, her shelter and utility expenses were not considered in its eligibility determination.

However, if the Claimant had not failed the gross income test, the Department would have only been able to apply the heat and utility standard deduction of \$588 per month and would not have applied actual utility expenses against the Claimant's countable income.

On March 9, 2011, the Department notified the Claimant that it had denied her application for Food Assistance Program (FAP) benefits due to excess income. Based on the evidence and testimony available during the hearing, the Department has established that it properly determined the Claimant's eligibility for the Food Assistance Program (FAP) based on the self-employment expenses that the Claimant was able to verify.

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 29, 2011

Date Mailed: June 30, 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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cc:

