

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 201138922
Issue No: 3002
Case No: [REDACTED]
Hearing Date:
July 20, 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 June 20, 2011. After due notice, a telephone hearing was held on Wednesday, July 20, 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.
2. The Claimant received monthly earned income in the gross monthly amount of \$651.89 on April 28, 2011, and \$655.57 on April 14, 2011.
3. On June 1, 2011, the Department determined that the Claimant was eligible for a monthly Food Assistance Program (FAP) allotment of \$362.
4. The Department received the Claimant's request for a hearing on June 20, 2011, protesting the amount of his Food Assistance Program (FAP) benefits.

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.

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.

The Claimant is an ongoing Food Assistance Program (FAP) recipient as a group of three. The Claimant received monthly earned income in the gross monthly amount of \$651.89 on April 28, 2011, and \$655.57 on April 14, 2011. Multiplying the average of these two paychecks by the 2.15 conversion factor determines a prospective monthly income of \$1,416. On June 1, 2011, the Department determined that the Claimant has a gross monthly income of \$1,429.

Based on the evidence and testimony available during the hearing, the Department has failed to establish that it properly determined the Claimant's Food Assistance Program (FAP) eligibility. During the hearing, the Department's representative testified that April earned income was used to determine the Claimant's Food Assistance Program (FAP) eligibility as of July 1, 2011. The hearing summary indicates that income had been incorrectly determined during previous benefit months. This Administrative Law Judge could not determine that the Department is presently using the correct income amounts.

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 Food Assistance Program (FAP) eligibility.

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 the Food Assistance Program (FAP) as of April 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.



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

Date Signed: July 26, 2011

Date Mailed: July 27, 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

cc:

