

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 2011-4147

Issue No: 3014

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 2, 2010

Montcalm County DHS

ADMINISTRATIVE LAW JUDGE: Kandra Robbins

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Claimant's request for hearing. After due notice, a [telephone](#) conference hearing was held on [December 2, 2010](#). The claimant and her [REDACTED] were present and testified.

ISSUE

Did the Department properly determine claimant's Food Assistance Program (FAP) group to include her [REDACTED]?

FINDINGS OF FACT

This Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant submitted an application for Assistance indicating that she resided in her [REDACTED] home.
2. [REDACTED] is the legal Guardian of the claimant's minor [REDACTED], [REDACTED]. (Dept Exhibit 1, pg. 2.)
3. The Department received Verification that [REDACTED] receives SSI income in the amount of \$674.00 per month (Department Exhibit 1 pg 8).
4. The claimant receives SSI in the amount of \$674.00 per month (Department Exhibit 1 pg 6).

5. Claimant has a monthly housing expense of \$300.00 as well as heat and utility (Department Exhibit 1 pg 9).
6. The Department completed claimant's FAP budget for Certification period October 14, 2010 through September 30, 2011 (Department Exhibit 1, pgs. 3-4).
7. On October 14, 2010, the Department sent the claimant notice that her monthly FAP allotment was \$44.00 with a Group size of 2 (Department Exhibit 1, pg. 11).
8. On October 18, 2010, the Department received the claimant's Request for Hearing DHS 1605 protesting the Department's determination of her FAP allotment.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1) an opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2)

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) 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 Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (BRM). Department Policy states:

DEFINITIONS

All TOA

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if not paid directly such as income paid to a representative.

Countable Income Countable income is the amount remaining after applying policy in this and other income-related manual items. This is the amount used to determine eligibility and benefit level.

Earned Income Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Some rental income is considered earned; see [BEM 504](#).

Income from Rental/Room and Board.

Unearned Income Unearned income is all income that is not earned.

Gross Income Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. (BEM 500).

Bridges will assist you in determining who must be included in the Food Assistance Program (FAP) group prior to evaluating the nonfinancial and financial eligibility of everyone in the group.

FAP group composition is established by determining:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately, and
4. Whether the person(s) resides in an eligible living situation (see Living Situations). (BEM 210).

Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child has his/her own spouse or child who lives with the group. (BEM 210).

The Claimant does not dispute the Department's calculation of the FAP budget merely the inclusion of her [REDACTED] and his income. The Department is required to count the claimant's total gross income in determining the claimant's eligibility for FAP

benefits. The Department is required to use the income for all members of the group. The group composition is determined by policy. In this case, the claimant's [REDACTED], [REDACTED] resides in the same home as the claimant. Her parental rights have not been terminated. Although the Claimant and her father contend that her parental rights have been terminated, they have not provided any evidence to support this. In fact, the only evidence provide is the Order for Guardianship ordered by [REDACTED] on July 14, 2006. The Order for Guardianship specifically states that she has reasonable parenting time. She is, therefore, still a legal parent of [REDACTED]. Although [REDACTED] pays rent to her father, they share common rooms as she does not have a separate kitchen, entry, or living room. [REDACTED] is under 22 years old. He is required to be part of the FAP group. Therefore, his income is required to be used in calculating program eligibility. [REDACTED] had unearned income in the amount of \$674.00. This income must be used in determining the Claimant's FAP eligibility.

DECISION AND ORDER

This Administrative Law Judge, based upon the above findings and conclusion of law, decides that the Department correctly determined the claimant's FAP group to include her minor [REDACTED].

It is so ORDERED.

/S/ _____

Kandra Robbins
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 7, 2010

Date Mailed: December 8, 2010

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.

KKR/tg

2011-4147/KKR

cc:

