

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-44623
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: August 18, 2011
DHS County: Wayne (82-15)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37, which govern the administrative hearing and appeal process, and Claimant's request for a hearing. After due notice, a telephone hearing was held on August 18, 2011, in Detroit, MI. Claimant appeared and testified at the hearing. [REDACTED], appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether DHS closed Claimant's Food Assistance Program (FAP) benefits in accordance with policies and procedures?

FINDINGS OF FACT

The Administrative Law Judge, based on competent, material, and substantial evidence in the record and on the entire record as a whole, finds as fact:

1. In 2011, DHS provided Claimant with FAP benefits.
2. On April 7, 2011, Claimant provided current income information to DHS indicating she had a monthly pension income of \$467.82 and she also received \$349.09 per week in workers compensation benefits.
3. On April 14, 2011, DHS recalculated Claimant's eligibility for FAP benefits and determined she was no longer eligible.
4. On April 14, 2011, DHS issued a Notice of Case Action terminating Claimant's FAP effective May 1, 2011.

5. On April 28, 2011, Claimant filed a Request for a Hearing with DHS.

CONCLUSIONS OF LAW

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-400.3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The DHS administrative manuals are the policies and procedures DHS officially created for its own use. While the DHS manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. The manuals contain the policy that applies in this case. After setting forth what the applicable policy is, consideration will then be given as to whether it was followed in this case.

Unearned income is described in BEM 500, "Income Overview," as "all income that is not earned." Unearned income is discussed in detail in BEM Item 503, "Income, Unearned." BEM 503 identifies all of the types of unearned income, it defines each type, and it indicates for each type of unearned income whether it is included as countable income for the different types of assistance (TOA). *Id.*, p. 3; BEM 503, p. 1.

The fifty-one categories of unearned income are: accelerated life insurance payments, adoption subsidies, Agent Orange payments, alien sponsor income, American Indian payments, annuity income, black lung, child allocation, child foster care payments, child support, death benefits, donations/contributions, educational assistance (not work study), factor concentrate litigation settlement (*Walker vs Bayer*), Filipino Veterans Equity Compensation Fund, flexible benefits, foster grandparents, government aid (including Medicaid), home equity conversion plans, individual development accounts, insurance payments for medical expenses, interest and dividends directly to client, Japanese and Aleut payments, jury duty, lease of natural resources, loan proceeds, Michigan Rehabilitation Services payments, military allotments, Nazi Victims Compensation, Older American Volunteer Program, radiation exposure compensation, Railroad Retirement Board benefits, Retired Senior Volunteer Program (RSVP), **retirement income-other**, Retirement, Survivors and Disability Insurance (RSDI) (AKA Social Security benefits), Ricky Ray Hemophilia Relief Act, sale of property in installments, SCORE or ACE, sick and accident insurance payments, spousal support, strike benefits, Supplemental Security Income (SSI), tax refunds and tax credits, trust payments, unemployment benefits, urban crime prevention, U.S. Civil Service and Federal Employee Retirement System, veterans benefits, VA pension and

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compensation, **workers compensation**, and Youthbuild. *Id.*, pp. 2-29 (emphasis added).

Both retirement income and workers compensation benefits must be counted as gross income. *Id.*, pp. 20, 29.

In conclusion, based on the findings of fact and conclusions of law, it is determined and concluded that DHS is AFFIRMED in this matter, and no corrective action is required.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, states that DHS is AFFIRMED in this case. DHS need take no further action in this matter.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 22, 2011

Date Mailed: August 22, 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.

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cc:

