

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201146875
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: September 1, 2011
Macomb County DHS (36)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on September 1, 2011 from Detroit, Michigan. The claimant appeared and testified. [REDACTED] appeared as a translator. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly counted gift income in determining Claimant's Food Assistance Program (FAP) benefits beginning 8/2011.

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP benefit recipient.
2. On an unspecified date, Claimant reported receiving approximately \$450/month in income from his brother.
3. On an unspecified date, DHS received a letter from Claimant's brother which in part stated, "I'm helping him temporarily past 7-8 months with \$450 a month average." (see Exhibit 1).
4. On 7/15/11, DHS began budgeting the income from Claimant's brother as gift income effective 8/2011 causing a reduction to Claimant's FAP benefits.

5. On 7/25/11, Claimant requested a hearing to dispute the DHS usage of gift income in the 8/2011 FAP benefit determination.

CONCLUSIONS OF LAW

The Food Assistance Program (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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

The undersigned will refer to the DHS regulations in effect as of 7/2011, the month of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

A donation to an individual by family or friends is the individual's unearned income. BEM 503 at 8. Bridges (the DHS database) counts the gross amount actually received, if the individual making the donation and the recipient are not members of any common eligibility determination group. *Id.*

In the present case, it was not disputed that Claimant received \$450/month in income from his brother. Claimant stated that the income was actually a loan and that DHS should not have budgeted the income.

DHS regulations allow for the exclusion of "bona fide loan" income, however, the evidence showed that DHS had no reason to believe that the \$450/month in income was part of a loan. Claimant conceded that he did not inform DHS that the money was a loan until the date of the administrative hearing. Claimant contended that DHS should have asked him if the income was part of a loan. However, there would be no logical reason for DHS to inquire. It is a client's burden to report, not DHS' burden to inquire. Accordingly, it is found that DHS properly counted the donation income as unearned income for Claimant.

Claimant only disputed the budgeting of the donation income by DHS. Claimant did not wish to dispute any other part of the 8/2011 FAP benefit determination. As it has been found that DHS properly budgeted the donation income, it is found that DHS properly determined Claimant's 8/2011 FAP benefit issuance.

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As noted during the hearing, Claimant is encouraged to submit documentation to verify that the income is part of a bona fide loan. If Claimant verifies the income is part of a loan, then Claimant's future FAP benefits should be updated accordingly.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FAP benefit issuance for 8/2011 by factoring \$450/month in donation income. The actions taken by DHS are AFFIRMED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: September 2, 2011

Date Mailed: September 2, 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 of the rehearing decision.

CG/hw

cc:

