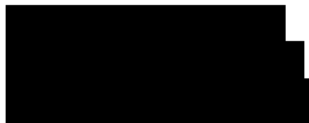


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201148370
Issue Code: 1017, 3014
Case No: [REDACTED]
Hearing Date: September 15, 2011
Midland County DHS

ADMINISTRATIVE LAW JUDGE: COREY A. ARENDT

HEARING DECISION

This matter is before me pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on September 15, 2011. The Claimant and Department appeared by telephone and provided testimony.

ISSUE

Did the Department properly close Claimant's Family Assistance Program (FAP) benefits and reduce Claimants Family Independence Program (FIP) benefits?

FINDINGS OF FACT

I find as material fact, based upon the competent, material and substantial evidence on the whole record:

1. As of August 31, 2011, the Claimant received FAP and FIP benefits.
2. On or around July 2, 2011, the Claimant provided the department with a number of pay stubs. Department Exhibit 31-37.
3. Between July 2, 2011 and August 2, 2011, the Department budgeted Claimant's eligibility for FIP benefits based on the pay stubs provided by the Claimant.
4. On or around August 2, 2011, the Department discovered the Claimant lived with his 17 year old wife and child and rented a room from his wife's parents. On August 2, 2011, the Department called the Claimant's wife's parents. The parents indicated they rented a room to the Claimant, his daughter and the couples' child. The parents indicated they did not wish to be included in the FAP group.

5. On August 2, 2011, the Department issued the Claimant a Notice of Case Action. The Notice indicated the FAP benefits were being closed because "Parents and children u[n]der 22 years of age in the same house[h]old must be included on the food program. You live with Sarah's parents, they do not want to be included in the food program so the food program has been closed". Department Exhibit 4. The Notice further stated the Claimant's FIP benefits would be decreasing to ■■■ a month beginning September 1, 2011. Department Exhibits 4-7.
6. On August 8, 2011, the Claimant requested a hearing protesting the August 2, 2011 Notice of Case Action.

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 400.901-400.951. 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).

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

The FAP (formerly known as the Food Stamp (FS) program) was 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 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) and the Bridges Reference Manual (BRM).

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. (BAM 105). This includes completion of the necessary forms. Clients who are able to but refuse to provide necessary information or take a required action are subject to penalties. BAM 105.

Bridges assists the Department in determining who must be included in the FAP group. The FAP group composition is established by determining BEM 212:

- Who lives together.
- The relationship(s) of the people who live together.
- Whether the people living together purchase and prepare food together or separately.
- Whether the person(s) reside in an eligible living situation.

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. Spouses who are legally married and live together must be in the same group. 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 212.

Living with means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. Persons who share only an access area (e.g., entrance or hallway) or non-living area (e.g., laundry) are not considered living together. BEM 212.

Based on the credible testimony of the Claimant and his wife, I find the Claimant and his wife do not live with the wife's parents. The Claimant and his wife rent a room from the wife's parents. The Claimant and the wife share non-living areas with the wife's parents. Therefore, the wife's parents are not mandatory group members for FAP purposes.

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 that were performed for remuneration or profit. Unearned income means ALL income that is not earned and includes FIP, RSDI, SSI and UB. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

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.

In the present matter, the Department's witness was unable to explain how the Department determined the Claimant's eligibility for FIP benefits. While the Department's witness did provide copies of the check stubs used, the Department did not furnish the budget used and was not able to explain the numbers used in determining the Claimant's eligibility.

Accordingly, I find the Agency's actions are **REVERSED**.

DECISION AND ORDER

I find, based upon the above findings of fact and conclusions of law, the Department improperly closed the Claimant's FAP case and improperly reduced the Claimant's FIP benefits.

The Department is ordered to initiate a redetermination of the Claimant's eligibility for FAP and FIP benefits beginning September 1, 2011 and issue retroactive benefits if otherwise entitled.

Accordingly, the Department's actions are **REVERSED**.

Corey A. Arendt
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: September 16, 2011

Date Mailed: September 19, 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.

CAA/cr

cc:

