

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-6882
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: February 7, 2011
DHS County: Wayne (17)
SSPC (Central)

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, and Claimant [REDACTED] request for a hearing. After due notice, a hearing was held in person on February 7, 2011. Claimant did not appear. Claimant's brother and Authorized Representative, [REDACTED], appeared and testified. [REDACTED], testified by telephone on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS denied Food Assistance Program (FAP) benefits to Claimant in accordance with its 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. On August 16, 2010, Claimant applied for FAP benefits with DHS.
2. Claimant is a single person, and her income is approximately \$2,680 per month.
3. DHS gave Claimant shelter and utility deductions, but DHS did not give Claimant an excess shelter deduction.
4. DHS did not deduct Claimant's monthly payment to the U.S. District Court for the Eastern District of Michigan, Bankruptcy Division.

5. On August 24, 2010, DHS denied FAP benefits to Claimant based on the fact that her income was over the maximum allowable income a person could earn to qualify for FAP benefits.
6. On November 15, 2010, Claimant filed a hearing request 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 Bridges Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The manuals provide the structure of DHS operations and I refer to the manuals to determine what policies and procedures are in place and should apply to this case.

In this case, DHS referred me to four manual Items, and I find that two of them in particular are relevant to this case. BEM 500, "Income Overview," is the first, and it gives me a definition of gross income and what the term encompasses:

INCOME OVERVIEW

DEFINITIONS

ALL TOA [TYPES OF ASSISTANCE]

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.

...

Garnishment or Other Withholding

Gross income includes amounts withheld from income which are any of the following:

- Voluntary.
- To repay a debt.
- To meet a legal obligation.

Some examples of amounts which may be withheld, but are still considered part of gross income are:

- Income taxes.
- Health or life insurance premiums.
- Medicare premiums.
- Union dues.
- Loan payments.
- Garnishments.
- Court-ordered or voluntary child support payments.

BEM 500, p. 1.

I also find that BEM 505, "Prospective Budgeting/Income Change Processing," contains the same information in its definition of available income:

PROSPECTIVE BUDGETING/INCOME CHANGE PROCESSING

DEFINITIONS

Available income: Income actually received or reasonably anticipated. Reasonably anticipated means that the amount of income can be estimated and the date of receipt is known. Available income includes garnisheed amounts and income received jointly; see BEM 500. BEM 505, p. 1.

Having reviewed these manual Items, and, having reviewed all of the testimony and evidence in this case, I find that DHS properly included monthly bankruptcy payments as part of Claimant's available income. I therefore find and determine that DHS was correct in denying Claimant's FAP benefits because of her excess income. The Department is AFFIRMED. DHS need take no further action in this matter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines that DHS is AFFIRMED as to its denial of FAP benefits to Claimant. IT IS ORDERED that DHS need take no further action in this matter.



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

Date Signed: February 10, 2011

2011-6882/JL

Date Mailed: February 14, 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.

JL/pf

cc:

