

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 20117341

Issue No: 3015

Case No:



Load No:

Hearing Date:

December 13, 2010

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on October 8, 2010. After due notice, a telephone hearing was held on December 13, 2010. Claimant personally appeared and provided testimony.

ISSUE

Did the department properly determine that Claimant was not eligible for FAP benefits due to excess income?

FINDINGS OF FACT

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

1. Claimant submitted a change report on August 31, 2010, reporting that he had been married on August 26, 2010. (Department Exhibit 1).
2. The department closed Claimant's FAP case due to excess income after Claimant's spouse's income was budgeted due to excess income. (Department Exhibit 1).
3. Claimant's group size is 2. The monthly net income limit for a group size of 2 is \$1,215.00.

4. Claimant submitted a hearing request on October 8, 2010 contesting the closure of his FAP case. (Request for a Hearing).

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). 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (BRM).

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. 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.

Claimant does not contest that he was receiving monthly net income in the amount of \$2,675.00 at the time relevant to this matter. A claimant with a group size of two has a maximum net income limit of \$1,215.00. RFT 250. Because Claimant's net income of \$2,675.00 exceeded the allowable 100% net income limit of \$1,215.00, Claimant is not entitled to FAP benefits for the time period in question.

In this case, Claimant contests the closure of his FAP case while this hearing was pending. Claimant does not contest that he is no longer eligible based on his wife's income. However, Claimant does believe he was entitled to FAP benefits up until the date of his hearing.

On August 31, 2010, Claimant submitted a change report to the department reporting that he was married on August 26, 2010. After budgeting Claimant's spouse's income, the department mailed Claimant a Notice of Case Action closing Claimant's FAP case due to excess income on September 25, 2010. As noted on Claimant's Request for a Hearing, his hearing request had to be received by the department on or before October 6, 2010, in order for him to continue to receive his FAP assistance at the former level. Although Claimant's hearing request is signed and dated September 29, 2010, Claimant's hearing request was received by the department on October 8, 2010, two days after the due date of October 6, 2010. Because Claimant missed the due date, his FAP benefits did not continue pending this hearing and that is why Claimant received his last FAP payment of \$200.00 in October 2010. Therefore, the department properly closed Claimant's FAP case and Claimant is not entitled to a supplementary FAP payment for the month of November 2010.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in determining Claimant's FAP eligibility.

The department's FAP eligibility is AFFIRMED.

SO ORDERED.

/s/ _____
Vicki L. Armstrong
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 20, 2010

Date Mailed: December 20, 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.

VLA [REDACTED]

cc: [REDACTED]