


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

IN THE MATTER OF:



Reg. No.: 2011-9691
Issue No.: 3003
Case No.: 
Hearing Date: March 9, 2011
DHS County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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. After due notice, a hearing was held on March 9, 2011. Claimant appeared and testified.

ISSUE

Did the Department of Human Services (Department) properly calculate Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. On October 27, 2010, the Department completed a FAP budget. The Department applied monies received by Claimant from her parents on a monthly basis as income.
2. On November 4, 2010, Claimant requested a hearing.

CONCLUSIONS OF LAW

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 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 (PRM).

In the present case, Claimant asserts that the Department misapplied monies she receives from her parents as income. Claimant testified, and the documents submitted demonstrate, that Claimant's parents have been loaning money on a monthly basis to Claimant for her to cover her expenses. This money, according to Claimant, has been given as a loan and her parents are expecting her to pay them back upon receipt of a Social Security award. Claimant testified the money was not given as a gift and she is expected to pay all monies back to her parents. Claimant's parents submitted a letter indicating the expectation of the return of the monies paid out to Claimant.

Relevant policy can be found at: BEM 500, p. 6:

Loans

Bridges excludes funds an individual has borrowed provided it is a bona fide loan. This includes a loan by oral agreement if it is made a bona fide loan. Bona fide loan means all the following are present:

- A loan contract or the lender's written statement clearly indicating the borrower's indebtedness.
- An acknowledgment from the borrower of the loan obligation.
- The borrower's expressed intent to repay the loan by pledging real or personal property or anticipated income.

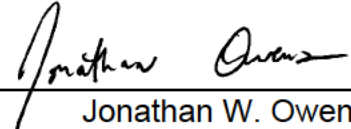
This exclusion does **not** apply to purchases made with borrowed money or interest earned on borrowed money.

The Department appears to have misapplied the money received as a loan by Claimant's parents as income. Since Claimant and her parents have an agreement and a planned method of repayment of all monies provided to her for her expenses, it does meet the policy terms to be considered a loan.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was not acting in compliance with Department policy.

Accordingly, the Department's decision is REVERSED and the Department is ORDERED to re-determine Claimant's FAP benefits from November 1, 2010, forward removing the money received as a loan from Claimant's FAP budget. The Department shall supplement Claimant for any loss in FAP benefits if otherwise eligible.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 10, 2011

Date Mailed: March 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.

JWO/pf

cc:

