

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: 2011-1500  
Issue No: 3015  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
December 16, 2010  
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 telephone hearing was held on December 16, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny the claimant's Food Assistance Program (FAP) application 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. The claimant applied for FAP benefits on September 1, 2010. (Department Exhibit 4 - 8)
2. Based on the reported earnings of the household, the department denied the claimant's application due to excess income. The claimant was mailed notice of this decision on September 15, 2010. (Department Exhibit 2 - 3)
3. The claimant submitted a hearing request on September 29, 2010.

CONCLUSIONS OF LAW

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 (PRM).

Department policy states:

**RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) (AKA SOCIAL SECURITY BENEFITS)**

**All Programs**

RSDI is available to retired and disabled persons, their dependents, and survivors of deceased workers.

Count the gross benefit amount as unearned income. BEM, Item 500, p. 29.

**Wages**

**All Programs**

**Wages** are the pay an employee receives from another person or organization. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit plan funds.

Count an employee's regular wages paid during a vacation or illness as earned income.

Count a wage advance as earnings when the employer actually pays it. Do NOT count the money withheld to offset the advance.

Count wages held by the employer at the request of the employee. However, wages held as a general practice by the employer are NOT income until actually paid.

**Exception:** Income received in one month that is intended to cover several months (e.g., contractual income) is

considered available in each of the months covered by the income.

Count gross wages except as explained in this item for:

- . "EIC"
- . "Flexible Benefits"
- . "Strikers"
- . "Student's Earnings"

BEM, Item 500, p. 15.

## **RETIREMENT INCOME – OTHER**

### **All Programs**

Refer to the specific sections in this item for policies regarding:

- . Railroad Retirement Board benefits
- . Retirement, Survivors and Disability Insurance (RSDI)
- . U.S. Civil Service and Federal Employee Retirement System

Other retirement income includes annuities, private pensions, military pensions, and state and local government pensions.

Count the gross benefit as unearned income. BEM, Item 500, p. 29.

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM 500. The claimant reported on his application that he had earned income, his son, RB, had earned income, three individuals in the household received RSDI, and his mother-in-law received a monthly pension. The claimant reported a program group of ten individuals and reported that they all purchased and prepared food together.

The sources of income added together amounted to over \$ [REDACTED] of gross income. The FAP monthly gross income limit for ten persons is \$ [REDACTED] RFI 250. Thus, the claimant was excess income to receive benefits.

It is noted that the claimant testified at the hearing that his mother-in-law did not always purchase and prepare food with the rest of the family. However, the application the claimant completed does state that everyone in the household buys food and eats

meals together. Thus, the department properly included the claimant's mother-in-law's pension.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied the claimant's FAP application due to excess income.

Accordingly, the department's determination is UPHeld. SO ORDERED.

Suzanne

/s/

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L. Keegstra

Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: December 22, 2010

Date Mailed: December 22, 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.

SLM/alc

cc:

