

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 201117356

Issue No: 3002

Case No: [REDACTED]

Hearing Date:

March 8, 2011

Livingston County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on December 20, 2010. After due notice, a telephone hearing was held on Tuesday, March 8, 2011.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) eligibility?

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 is an ongoing Food Assistance Program (FAP) recipient.
2. On December 15, 2010, the Department notified the Claimant that her FAP benefits would close for failure to provide information necessary to determine her eligibility.
3. The Claimant receives monthly earned income in the gross monthly amount of \$4,186.
4. The Claimant receives monthly child support in the gross monthly amount of \$133.

5. The Department determined that the Claimant was eligible for a monthly FAP allotment of \$68.
6. On December 20, 2010, the Department received the Claimant's request for a hearing, protesting the amount of her FAP allotment.
7. On December 29, 2010, the Claimant submitted verification of her income.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

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 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 (AMA), 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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1.

The Department uses documents, collateral contacts, or home calls to verify information. BAM 130, p. 1. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130, p. 2. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

Clients are allowed ten calendar days to provide the verifications requested by the Department. BAM 130, p. 4. The Department should send a negative action notice when the client indicates a refusal to provide the verification, or the time period provided has lapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 4. The Department should extend the time limit no more than once if the client cannot provide the verification despite a reasonable effort. BAM 130, p. 4.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. BAM 105. Income reporting requirements are limited to the following:

Earned income:

- Starting or stopping employment.
- Changing employers.
- Change in rate of pay.
- Change in work hours of more than five hours per week that is expected to continue for more than one month.

Unearned income:

- Starting or stopping a source of unearned income.
- Change in gross monthly income of more than \$50 since the last reported change.

Other changes:

- Persons in the home.
- Marital status.
- Address and shelter cost changes that result from the move.
- Vehicles.
- Assets.
- Child support expenses paid.
- Health or hospital coverage and premiums.
- Day care needs or providers. BAM 105

In this case, the Claimant is an ongoing Food Assistance Program (FAP) recipient. On December 15, 2010, the Department notified the Claimant that her FAP benefits would close for failure to provide information necessary to determine her eligibility.

The Claimant receives a monthly earned income in the gross monthly amount of \$4,186. This was determined by multiplying the average of bi-weekly paychecks by the 2.15 conversion factor. The paychecks received were for \$556.64 on November 19, 2010, and for \$740 on December 3, 2010. The Claimant received monthly child support in the gross monthly amount of \$133. The Claimant's adjusted gross income of \$3,277 was determined by reducing her total gross income by a 20% earned income deduction, and the \$204 standard deduction. The Claimant's total shelter expense of \$1,441 was determined by adding her monthly shelter expense of \$853.33 to the \$588 standard heat and utility deduction under the Low Income Home Energy Assistance Program. Since total shelter expenses are less than 50% of her adjusted gross income, the Claimant is not entitled to a shelter expense deduction.

The Claimant's net income is equal to her adjusted gross income of \$3,227. A claimant with a group size of seven and a net income of \$3,227 is entitled to a FAP allotment of \$68, which is the amount of FAP benefits granted to the Claimant for this period. RFT 260. I find that the Department has established that it acted in accordance with policy determining Claimant's FAP allotment.

The Claimant argued that the Department did not properly determine her monthly earned income. The Claimant testified that earned income received on December 3, 2010, was much higher than normal and does not reflect level of income normally received in her household.

However, the Claimant did not provide the Department with verification of her current income until December 29, 2010. The Department determined the Claimant's eligibility for FAP benefits using the best information available. This Administrative Law Judge finds that the Department acted in accordance with policy when it determined the Claimant's eligibility for FAP benefits.

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 the Claimant's FAP eligibility.

The Department's FAP eligibility determination is AFFIRMED. It is SO ORDERED.

/s/ _____
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 14, 2011

Date Mailed: March 15, 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.

KS/tg

cc:

