

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No: 201117900
Issue No: 3002
Case No: ██████████

Hearing Date:
March 8, 2010
Ingham 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 February 4, 2011. 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 14, 2010, the Department sent the Claimant a Redetermination form with a due date of January 3, 2011.
3. The Claimant receives monthly earned income in the gross monthly amount of \$1,830.
4. The Claimant's husband receives monthly earned income in the gross monthly amount of \$1,393.
5. On January 25, 2011, the Department notified the Claimant that it would close her Food Assistance Program (FAP) benefits due to excess income.

6. The Department received the Claimant's request for a hearing on February 4, 2011, protesting the closure of her Food Assistance Program (FAP) benefits.

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.

In this case, the Claimant was an ongoing FAP recipient as a group of three when the Department sent her a routine Redetermination form with a due date of January 3, 2011. The Claimant returned the Redetermination form along with verification of her household income, and the Department evaluated her eligibility for FAP benefits based on the information it received.

The Claimant receives monthly earned income in the gross monthly amount of \$1,830. This was determined by taking the average of her monthly income over a two month period where she had earned \$1,860 for December of 2010, and \$1,800 for November of 2010. The Claimant's husband receives monthly earned income in the gross monthly amount of \$1,393. This was determined by multiplying the average of his bi-weekly

paychecks by the 2.15 conversion factor. The husband received paychecks on December 23, 2010, for \$556.64, and on January 7, 2011, for \$740. The Claimant's adjusted gross income of \$2,437 was determined by reducing her total monthly income by a 20% earned income deduction and a \$141 standard deduction. The gross income limit for a group of three is \$1,984. Since the Claimant's gross income exceeds this amount, she is not eligible to receive FAP benefits.

The Claimant argued that the Department did not determine her income properly for the FAP budget. The Claimant argued that the Department determined that her income was greater than the income she actually receives.

The Department determines eligibility to receive FAP benefits based on the gross income received within a household as directed by Bridges Eligibility Manual Item #500, and therefore the amount counted may be more than the client actually receives because the gross amount is used prior to any deductions, such as taxes, insurance premiums, or retirement contributions.

Based on the evidence and testimony available during the hearing, the Department has established that it acted in accordance with policy in determining the Claimant's FAP eligibility.

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 10, 2011

Date Mailed: March 11, 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

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