

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

IN THE MATTER OF:

[REDACTED]

Re. No.: 2011903
Issue No.: 1018; 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 8, 2010
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on November 8, 2010. The Claimant appeared at the hearing testified. [REDACTED] AP Supervisor and [REDACTED], AP Worker appeared on behalf of the Department.

ISSUE

Was the Department correct in denying Claimant's FIP application and in reducing Claimant's FAP application?

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 was an ongoing recipient of FAP benefits.
- (2) Claimant's FAP benefit was reduced to \$275 from \$311 effective April 1, 2010.
- (3) Claimant applied for FIP benefits on March 19, 2010.
- (4) Claimant's FIP application was denied due to excess income.
- (5) Claimant's child receives SSI benefits of \$776 per month.

- (6) Claimant requested a hearing on March 18, 2010 and March 26, 2010 contesting the determination of FAP and FIP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formerly known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Program Reference Manual ("PRM").

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or Department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependant Children (ADC) program effective October 1, 1996. 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 with regard to Claimant's FIP application, Claimant receives \$776 per month in RSDI benefits on behalf of her child. Claimant received \$120.64 in child support during the period in question. After subtracting \$50 for child support exclusion, Claimant has \$846 countable income. The payment standard for one child is \$403. Claimant's countable income exceeds the payment standard therefore she has excess income and is not eligible for FIP benefits. This is the determination made by the Department and it is correct.

The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. BEM 550. Under 7 CFR 273.9, as amended, \$132.00 is deducted from the gross income of FAP recipients in determining FAP grants.

In the present case, according to the aforementioned policy on budgeting, Claimant has \$896 unearned income from social security benefits on behalf of her child. Subtracting \$132 for a standard deduction from \$896 results with \$764 adjusted gross income. Claimant qualified for the maximum excess shelter deduction of \$459. Subtracting \$459 from \$764 results with \$305 net income. A household of 2 with a net monthly income of

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\$305 is entitled to a monthly FAP grant of \$275 per month. RFT 260. Therefore the Department's determination of FAP benefits is correct.

Issues were raised by both sides about circumstances that arose after the request for hearing was made. Those issues are not addressed in this opinion because they are not ripe. Issues were raised by Claimant regarding decisions made by the Department more than 90 days prior to the request for hearing. It was explained to Claimant that this Administrative Law Judge has no jurisdiction to address issues that arose more than 90 days prior to the request for hearing. BAM 600.

DECISION AND ORDER

Therefore based on the forgoing findings of fact and conclusions of law it is ORDERED that the Department decision to deny Claimant's FIP application for excess income is AFFIRMED. It is further ORDERED that the Department's decision to reduce Claimant's FAP benefits is AFFIRMED.



Aaron McClintic
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: November 10, 2010

Date Mailed: November 10, 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 of the rehearing decision.

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