

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-27311

Issue No: 3002

[REDACTED]

[REDACTED]

Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 received on March 23, 2011. After due notice, a telephone hearing was held on [REDACTED]. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly determined Claimant's 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. Claimant applied for FAP for herself and her two brothers on December 8, 2010. (Department Exhibits 19-32).
2. On December 10, 2010, the department received a letter from Claimant's parents informing the department that they give Claimant and each of her brothers [REDACTED] per month for incidentals and that they pay all of Claimant's shelter costs. (Department Exhibit 7).
3. The department mailed Claimant a Notice of Case Action on December 15, 2010, informing her she had been approved for [REDACTED] a month in FAP benefits beginning January 1, 2011. (Department Exhibits 2-5).
4. Claimant submitted a timely hearing request on March 23, 2011, protesting the amount of her FAP benefits. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 (BRM).

For FAP purposes, all earned and unearned income available to 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 (AMP), 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. 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, Claimant submitted a Request for a Hearing on March 23, 2011, contending that her FAP benefits had been improperly reduced because her shelter expenses were not considered. During the hearing, Claimant admitted that her parents pay her shelter expenses.

Claimant's mother also appeared at the hearing and provided testimony. Claimant's mother stated that Claimant and her two brothers each work no less than 20 hours a

week for her real estate company and that in return she pays all of their household expenses directly to the respective companies to ensure the utilities, telephone and rent are paid. Claimant's mother reiterated numerous times during the hearing that she does not pay Claimant or her brothers for their labor, but instead pays their living expenses so she does not have to worry about their bills being paid.

Prior to the close of the hearing, Claimant's mother questioned whether Claimant should have continued to receive the original FAP amount based on the submission of a timely hearing request. The department admitted it had been an oversight and Claimant would be issued a supplement.

As explained during the hearing, the only issue before the Administrative Law Judge was whether the department properly determined Claimant's FAP eligibility by not including a shelter expense. Based on the evidence and testimony available through the hearing, the department properly established a shelter expense should not have been included in the department's determination and Claimant is receiving the proper amount of FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined Claimant's FAP benefits for this period.

The department's determination of FAP benefits is AFFIRMED and the department SHALL issue supplemental FAP benefits to which Claimant is otherwise entitled based on her submission of the timely hearing request.

It is SO ORDERED.

/s/ _____
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 5/16/11

Date Mailed: 5/16/11

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.

[REDACTED]

[REDACTED]

[REDACTED]