

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-28387

Issue No: 3015

[REDACTED]  
St. Joseph County DHS

ADMINISTRATIVE LAW JUDGE: Vicki 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 was received on March 31, 2011. After due notice, a telephone hearing was held on [REDACTED]. Claimant personally appeared and provided testimony.

ISSUE

Did the department properly determine that Claimant was not eligible for FAP benefits 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. Claimant applied for FAP on March 8, 2011. (Department Exhibits 19-22).
2. On March 24, 2011, the department mailed Claimant a Notice of Case Action informing her that she was denied FAP benefits due to excess income. (Department Exhibits 6-7).
3. Claimant submitted a hearing request on March 31, 2011, contesting the denial of her FAP application. (Request for a Hearing).

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 (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.

In this case, Claimant testified that she had applied for short-term disability after her surgery on February 28, 2011, because she was unable to immediately return to work, which is why she also applied for FAP benefits on March 8, 2011. Claimant stated that she told this to her case worker during the in-take interview for her FAP application. The departmental representative admitted that she did not recall the interview and determined Claimant's FAP eligibility based on her projected income of [REDACTED] an hour working 40 hours a week. However, Claimant's last day of work was February 23, 2011. At the time of the hearing, Claimant still had not returned to work. Notably, Claimant wrote on her Assistance Application that she had applied for short-term disability two weeks prior to her application.

Based on Claimant's testimony, it appears incorrect income information was used for determining her FAP eligibility. As a result, the Administrative Law Judge finds the department needs to verify Claimant's actual earnings from the date of her application and redetermine whether she is eligible 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 did not act in accordance with policy in determining Claimant's FAP eligibility because she had informed the department at the time of application that she was not working and had applied for short-term disability.

The department shall redetermine Claimant's eligibility for FAP benefits in accordance with the applicable department policy by verifying her actual employment and short-term disability payments if any, and award Claimant FAP benefits back to the date of application if she is otherwise entitled.

