

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

IN THE MATTER OF:

LADONNA KIMBROUGH
24140 DENISE BLVD APT 23A
CLINTON TOWNSHIP MI 48036

Reg. No.: 2011-2949
Issue No.: 3002
Case No.: 102617712
Load No.: 5012000000
Hearing Date: November 22, 2010
DHS County: Macomb (12)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37, and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on November 22, 2010. Claimant appeared and testified. [REDACTED] [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly awarded Food Assistance Program (FAP) benefits to Claimant?

FINDINGS OF FACT

The Administrative Law Judge, based on competent, material, and substantial evidence in the record and on the entire record as a whole, finds as fact:

1. On August 1, 2009, DHS awarded Claimant FAP benefits of \$293 per month.
2. On May 9, 2010, Claimant began receiving Unemployment Insurance (UI) benefits of \$578 per month.
3. On August 1, 2010, Claimant's FAP benefits were \$667 per month.
4. On October 1, 2010, Claimant's FAP benefits were reduced to \$227 per month based on Claimant's receipt of UI benefits.
5. On October 12, 2010, Claimant filed a notice of hearing request with DHS.

6. On November 1, 2010, Claimant's FAP benefits were reduced to \$197 per month.

CONCLUSIONS OF LAW

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers the FAP program pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-400.3015. DHS policies are found in Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and Reference Tables Manual (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The manuals provide the structure of DHS operations and I refer to the manuals to determine what policies and procedures are in place and apply to this case. DHS refers me to BEM 500, "Income Overview," in its Hearing Summary, and I agree that this is the relevant manual item.

BEM 500 provides a definition for the term "income:"

INCOME OVERVIEW

DEFINITIONS

ALL TOA [TYPES OF ASSISTANCE]

Income

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if **not** paid directly such as income paid to a representative.

Countable Income

Countable income is the amount remaining after applying policy in this and other income-related manual items. This is the amount used to determine eligibility and benefit level.

...

Unearned Income

Unearned income is all income that is not earned. BEM 500, p. 3 (bold print in original).

Having reviewed this manual Item, and having reviewed all of the testimony and evidence in this case, I find that DHS properly followed the definition of income and properly calculated Claimant's FAP benefits through October 31, 2010. DHS is AFFIRMED as to its award of benefits to Claimant through October 31, 2010.

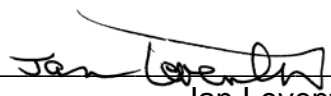
After October 31, 2010, however, DHS was unable to explain the FAP calculation for the month of November 2010. Claimant testified there were no changes in her income between October and November. I therefore find and conclude that a recalculation of Claimant's November 2010 FAP benefits is necessary in this case.

I therefore determine that DHS shall recalculate Claimant's FAP benefits for November 2010, and thereafter. DHS is PARTIALLY REVERSED in this matter. DHS is ORDERED to recalculate Claimant's FAP benefits for November 2010 and thereafter and supplement her benefits in accordance with DHS policy and procedures.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines that DHS is PARTIALLY AFFIRMED and PARTIALLY REVERSED in this matter. DHS is affirmed as to the FAP benefits provided to Claimant through October 31, 2010. DHS is reversed as to the benefits it provided to Claimant as of November 1, 2010.

IT IS ORDERED that DHS need take no further action as to Claimant's FAP benefits through October 31, 2010. IT IS FURTHER ORDERED that DHS shall recalculate Claimant's FAP benefits as of November 1, 2010, and make adjustments in accordance with all DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 23, 2010

2011-2949/JL

Date Mailed: November 23, 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 date of the rehearing decision.

JL/pf

cc:

