

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

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg No.: 2011-31790
Issue No.: 3015
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: May 31, 2011
County DHS: Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 May 31, 2011. The Claimant was present and testified. The Department of Human Services (Department) was represented by [REDACTED] ES.

ISSUE

Was the Department correct in its decision to deny Claimant's Food Assistance Program (FAP) application 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 with a household of four persons on April 1, 2011.
2. Claimant received [REDACTED] in earned income and [REDACTED] in unearned income.
3. Claimant had an obligation for shelter, utilities and heat.
4. On April 15, 2011 the Department denied Claimant's FAP application due to excess income.
5. Claimant requested a hearing contesting the denial.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) 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 administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in BAM, BEM and PRM, which includes the Reference Tables (RFT.).

The federal regulations define household income to include SSI and RSDI benefits, as well as earned income. 7 CFR 273.9(b) Only 80% of earned income is counted in determining FAP benefits. BEM 550. Under 7 CFR 273.9, as amended, and RFT 255, [REDACTED] is deducted from the gross income of FAP recipients in households of four in determining FAP grants. Under 7 CFR 273.9, deductions for excess shelter are also made. BEM 554.

The Reference Table (RFT) is used to determine whether the claimant’s income exceeds allowable income. FAP groups are categorically eligible based on enhanced authorization for Domestic Violence Prevention Services. BEM 213. RFT 250 mandates that a group size of four has an income limit of [REDACTED] using monthly categorical income.

In the present case, according to the aforementioned policy, the Department is required to make deductions for excess shelter. The Department offered into evidence a net income budget which did not show information regarding shelter. The Department and Claimant indicated that Claimant had shelter expenses. Without a budget in evidence reflecting shelter deductions, I cannot find that the Department was correct in its net income calculation.

In addition, a group size of four has a gross income limit of [REDACTED] RFT 250; BEM 213. Claimant’s gross income of [REDACTED] does not exceed the income limit of [REDACTED]. Therefore, the Department was not correct in its decision to deny Claimant’s FAP application due to excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was not correct in its decision to deny Claimant’s FAP application, and it is therefore ORDERED that the Department’s decision is REVERSED. It is further ORDERED that the Department shall reinstate Claimant’s FAP

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application of April 1, 2011, and if Claimant meets all eligibility requirements, issue missed payments in supplemental form.

/s/ _____
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 8, 2011

Date Mailed: June 8, 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 of the rehearing decision.

SBC /ctl

cc: _____
Macomb County DHS (12)/1843

Administrative Hearings