

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

IN THE MATTER OF:

[REDACTED]

Reg No: 201132473  
Issue No: 3015  
Case No.: [REDACTED]  
Hearing Date:  
June 1, 2011  
SSPC East

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on June 1, 2011. The Claimant and her spouse, [REDACTED] appeared and testified. Tonya Williams, Assistance Payments Supervisor and Morgan Hafler, Assistance Payments Worker appeared on behalf of the Department.

ISSUE

Whether the Department complied with Administrative Law Judge Leventer's Decision and Order of March 21, 2011.

Whether the Department properly denied the Claimant's Food Assistance Program ("FAP") application of October 25, 2010.

FINDINGS OF FACT

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

1. The Claimant applied for FAP benefits online on October 25, 2010.  
Exhibit 7
2. The Department denied the Claimant's application on November 23, 2010 for failure to verify proof of income.
3. The Claimant requested a hearing on December 1, 2010, and after a hearing was held, a Decision was rendered by ALJ Leventer which ordered the following: "The DHS shall reinstate and reopen the Claimant's FAP application, accept Claimant's income and utility verification documents, determine Claimant's eligibility, and provide appropriate supplemental retroactive benefits effective October 25, 2010 in accordance with all DHS policies and procedures." Exhibit 1.
4. The Department reinstated the claimant's FAP application and accepted the Claimant's verification of income and utilities.
5. The Department determined the Claimant's eligibility and denied the Claimant's reinstated application on March 29, 2011 due to excess income. Exhibit 10.
6. The Claimant's October 25, 2010 application indicated that the Claimant and her spouse resided together and that the Claimant received \$80 per month from her former employer. Exhibit 7
7. At the hearing, Claimant testified that at the time of her application her husband did not live with her and she further testified that he lives with her 3 days per month.

8. The Claimant reported that she paid no rent on her October 25, 2010 application. At the hearing, she stated that at the time of her application she paid the rent. The Claimant's rent amount is \$910 and was not verified by the Department. Exhibit 7
9. The FAP income limit applied by the Department for a group of two persons was \$1215.
10. No unearned income was reported being received by the Claimant at the time of application other than the \$80 in retirement income. This amount was included in the FAP eligibility determination. Exhibit 5
11. The Claimant's spouse is disabled and receives RSDI in the amount of \$2027. Exhibit 3
12. At the time of the Claimant's phone interview with the Department on November 9, 2010, the Claimant indicated that she and her spouse were the only individuals who lived in the home. Exhibit 11
13. At the hearing, the Claimant's spouse testified that he does not reside with the Claimant.
14. At the hearing, the Claimant's spouse testified that he gives the Claimant at least \$1500 per month (estimated) to assist her. This income amount was not disclosed by the Claimant in her application. Exhibit 7.
15. The Claimant's lot rent is paid by her children. Exhibit 11
16. The Claimant pays utility bills and the Department credited her with a \$588 utility allowance. Exhibit 9

17. The Claimant applied for and receives RSDI in the amount of \$840, which the Department determined from an SOLQ report. Exhibit 2. The Claimant did not review RSDI benefits at the time of the application. The Department included the Claimant's RSDI income in the FAP budget, which it calculated to determine the Claimant's eligibility Exhibits 8 and 9.
18. The Claimant requested a hearing on April 27, 2011, protesting the denial of her FAP application and that the Department did not follow ALJ Leventer's Decision and Order.

#### 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 (formerly known as the Family Independence Agency) 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 (PRM).

Department Policy defines household income to include RSDI benefits which are considered unearned income. The Department must include all income earned and unearned income in the FAP budget and must include the gross income. BEM 500, 550.

A standard deduction of \$141 for a group of two persons is deducted from the gross unearned income of FAP recipients in determining FAP grants. RFT 255. Deductions for excess shelter are also made. BEM 554. Medical expenses over

\$35.00 are also taken into consideration for groups with one or more SDV (Senior, Disabled or Veteran). BEM 554, P. 1.

The first issue that must be addressed is whether the Department properly followed ALJ Leventer's Decision and Order of March 21, 2011. The Department was ordered to reinstate the Claimant's application and accept the Claimant's income verification and utility expenses. The Department was also ordered to determine eligibility and supplement the Claimant for any FAP benefits in accordance with Department policy. I find that the Department did fulfill the requirements of ALJ Leventer's Decision and Order. The Department reinstated the application as ordered and determined that the Claimant was not eligible due to excess income, therefore no supplement of FAP benefits was required to be made. The Decision and Order did not require the Department to find that the Claimant was eligible for FAP benefits, rather it required that the Department determine whether the Claimant was eligible.

The Claimant has also sought review of whether the Department properly denied the Claimant's FAP application due to excess income. The Department made its decision based upon the information provided by the Claimant in her October 25, 2010 application, the telephone interview on November 9, 2010, verification of income, utility bills submitted by the Claimant and an SOLQ report which reported that the Claimant began receiving RSDI income of \$840 as of October 2010.

At the hearing, it was disclosed that notwithstanding the Claimant's statement on her FAP application that her husband was living with her at the time of the application, she and her husband testified at the hearing that he was not living with her. The

Department must base its determination on the information it is provided and use its best judgment. BAM 130, page 3.

The Department reasonably relied upon the Claimant's statement in her application and further clarified in a telephone interview with the Claimant, on November 9, 2010, that she and her spouse cook and prepare meals together. Exhibit 11. Based upon these facts, the Department correctly determined, at the time it determined eligibility, that the Claimant lived with her husband at the time of the application, and that he should be included in the FAP group. Thus it must be concluded that the Department, based on the information it had available, correctly determined and included the Claimant's husband as a member of her FAP group and thus was required to and did include the Claimant's spouse income as well.

There was several other material discrepancies in the information the Claimant provided the Department in her online application and telephone interview and facts that she provided at the hearing. The Claimant listed \$80 in income as the amount she received at the time of the application and did not mention in the application that she receives at least \$1,500 in financial assistance from her husband, who disclosed this information at the hearing.

The Claimant testified that she paid the rent in October 2010, but during the telephone interview with the Department, after the application was filed, the Claimant told the Department representative that her children pay the rent. Exhibit 11. The Department must base its determinations upon the information it has at the time. The basic factual discrepancies, which resulted based upon the testimony of the Claimant at the hearing, were not considered by the Department at the time it made its eligibility

determination because it did not have that information. Based upon the testimony and documentary evidence presented at the hearing, it is determined that the Department used its best judgment based upon the best information it had available to it in making its determination when it denied the Claimant's FAP application as required by policy.

The only issue the Department should have further verified is the unearned RSDI income it determined was received by the Claimant. The Department should have verified the Claimant's RSDI income in the amount of \$840 as it was a discrepancy from the income statement made in the application. Because it did not verify the information, the income was included even though the Claimant did not receive the RSDI in that month. A recomputation of the FAP benefits, without the Claimant's RSDI income however, still results in the Claimant being ineligible for FAP benefits due to excess income. What follows is the excess income analysis.

In the present case, according to the policy on budgeting for FAP benefits, Claimant had a gross monthly unearned income of \$2107. This amount includes \$80 of the Claimant's income and \$2027 of her spouse's income, but does not include the Claimant's RSDI income.

The Adjusted gross income is determined to be \$1901. Adjusted gross income is determined by deducting the standard deduction of \$141 and medical expenses of \$65 from the total gross income to determine the adjusted gross income. ( $\$2107 - \$141 - \$65 = \$1901$ ).

The excess shelter amount is determined by deducting the Shelter expenses from one half the adjusted gross income. The Shelter expenses total \$588. This amount is based upon the claimant's reported rent at the time of the application which


was \$0 per month and a standard utility expense of \$588 and one half the adjusted gross income which equals \$983.. The excess shelter expense is zero. ( $\$588 - \$983 = 0$ ). The excess shelter amount is subtracted from the adjusted gross income of \$1966 to get the net income amount of \$1966. The amount of food assistance allotment is established by RFT 260. A household of two persons with a net monthly income of \$1966 is not entitled to FAP benefits as the net income exceeds the net income limit of \$1215. RFT 260.

The Claimant is urged to reapply for Food Assistance and to carefully complete the application and to include all income she receives, as well as clearly delineate who is residing in her home at the time of the application.

Based upon the foregoing review, it is found that the Department correctly determined that the Claimant's FAP application should be denied due to excess income and therefore its determination is AFFIRMED.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that the Department properly followed the Decision and Order of ALJ Leventer and also correctly determined that the Claimant was not eligible for FAP benefits due to excess income and its denial of the application is AFFIRMED.

  
Lynn M. Ferris  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 06/16/11

Date Mailed: 06/20/11

**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.

LMF/dj

cc:

