

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-32943  
Issue No.: 3015; 3026  
Case No.: [REDACTED]  
Hearing Date: June 2, 2011  
Wayne County DHS

**ADMINISTRATIVE LAW JUDGE:** Susan Burke

**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 June 2, 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 on [REDACTED].
2. Claimant was self-employed at the time of the application.
3. Claimant submitted to the Department business expenses for determination of countable gross income.
4. The Department determined that Claimant's countable gross income was \$4,150.00 per month.
5. The Department denied Claimant's application due to gross income exceeding the limit.

6. Claimant requested a hearing on the denial of his FAP application.
7. The Department did not submit a budget or other proof as to which expenses were allowed to be deducted from Claimant's business total proceeds to arrive at countable gross income.

### **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.).

BEM 502 instructs:

Countable income from self-employment equals the total proceeds **minus** allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income **except** for farm loss amounts.

Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses.

#### **SELF-EMPLOYMENT EXPENSES**

##### **Allowed**

Allowable expenses include all of the following:

- Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.
- Interest and principal on loans for equipment, real estate or income-producing property.
- Insurance premiums on loans for equipment, real estate and other income-producing property.
- Taxes paid on income-producing property.
- Transportation costs while on the job (example: fuel).

- Purchase of capital equipment.
- A child care provider's cost of meals for children. Do **not** allow costs for the provider's own children.
- Any other identifiable expense of producing self-employment income except those listed below.

**Note:** Allowable expenses for rental/room and board are different than those listed above; see BEM 504, ALLOWABLE RENTAL EXPENSES.

**Not Allowed**

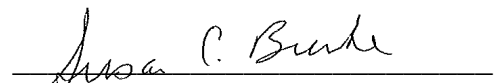
Do **not** enter any of the following as self-employment expenses in Bridges:

- A net loss from a previous period.
- Federal, state and local income taxes.
- Personal entertainment or other individual business expenses.
- Money set aside for retirement.
- Depreciation on equipment, real estate or other capital investments.

In the present case, the Department determined that Claimant's gross countable income was \$4,150.00 per month, but the Department failed to demonstrate how it arrived at \$4,150.00. Claimant had submitted to the Department business expenses to be deducted from the business total proceeds, but the Department failed to show which expenses were allowed per the policy stated above. The Department merely submitted a Notice of Case Action showing the purported monthly countable gross income. The Department cannot therefore found to be correct in its denial of Claimant's FAP application.

**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 of [REDACTED], and it is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that the Department shall reinstate and reprocess Claimant's FAP application of [REDACTED], and if Claimant is found to be eligible, issue supplements for any missed payments.

  
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Susan Burke  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: 6/7/11

Date Mailed: 6/7/11

**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 of the rehearing decision.

SB/sm

cc: [REDACTED]