

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201136383

Issue No: 3015

Case No: [REDACTED]

Hearing Date:

July 25, 2011

Oakland County DHS (02)

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 claimant's request for a hearing. After due notice, a telephone hearing was held on July 25, 2011 in Detroit, Michigan. The Claimant appeared and testified on his own behalf, with the assistance of an interpreter from [REDACTED], whose name is [REDACTED], [REDACTED], Assistance Payments Supervisor and [REDACTED], Assistance Payments Worker appeared on behalf of the Department.

ISSUE

Was the Claimant's Food Assistance Program ("FAP") case properly closed 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. The Claimant was an ongoing FAP recipient.
2. The Claimant's FAP case was closed on February 1, 2011, due to excess income. (Exhibit 1).
3. The Claimant receives \$808 in social security benefits monthly. (Exhibit 2).

4. The Claimant receives unemployment benefits in the amount of \$724 bi-weekly.
5. The Claimant is divorced and pays spousal support to his ex-wife as part of an order of divorce, which is enforced by [REDACTED]. (Claimant Exhibit 1).
6. The Claimant's social security benefits are reduced due to spousal support he is ordered, and legally obligated to pay to his ex-wife. (Claimant Exhibit 3).
7. The Claimant's unemployment benefits are reduced due to spousal support he is ordered and legally obligated to pay to his ex-wife. (Claimant Exhibit 2).
8. The Claimant's rent was \$703 at the time the Department calculated the Claimant's FAP eligibility. (Exhibit)
9. RFT 250 sets the maximum income limit at \$903 per month which is the maximum amount that can be received as income for one individual to be eligible to receive FAP benefits.
10. The Department determined the Claimant's total gross unearned income to be \$2404. (Exhibit 4).
11. The Claimant requested a hearing on March 4, 2011 protesting the closure of his FAP case.

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 Bridges Reference Manual (BRM).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM 500. This matter involves unearned income of the Claimant from Social Security and unemployment compensation.

In this case, the Administrative Law Judge has reviewed the FAP budget and the exhibits regarding the unearned income received by the Claimant from Social Security and unemployment compensation benefits, and finds that the Claimant's gross income exceeds the gross income limit established by RFT 250 of \$903 for one individual. The Department properly included the gross amounts received by the Claimant for these benefits, without deducting the spousal support which the Claimant is required to pay by deduction from these benefits.

While in computing food assistance certain expenses are allowed to be deducted by Department policy from gross income, these include dependent care expenses including child care, shelter (housing) expenses, child support expenses and medical expenses if the FAP group is an SDV group. BEM 554. Payments for spousal support are not an expense that Department policy recognizes. In this case the Claimant is required as a result of a divorce decree to pay spousal support. (Claimant Exhibits 1 and 2). Spousal support is defined as a payment from a spouse or former spouse because of a legally enforceable obligation for financial support. It includes maintenance and alimony payments. BEM 503. In this case, amounts are garnished from the Claimant's unearned income to meet his legal obligation to pay his former spouse spousal support. Department policy does not recognize these payments as expenses to be deducted from gross income when determining FAP eligibility. BEM 500 p. 3.

All income must be counted, and in this case totals \$1556 for unemployment, which is determined by the bi-weekly benefit amount received of \$724, and multiplying that amount by 2.15 as required by policy. BEM 505. The unemployment income alone exceeds the \$903 income limit. BEM 505 and BEM 500. The Social Security amount of \$808 per month received by the Claimant must be added to the unemployment received for a total of \$2364, which exceeds the \$903 per month income limit. Per RFT 250 the income limit for a FAP group of 1 member is \$903, and thus the Claimant is not eligible for FAP benefits because his gross income exceeds the income limit.

It must be noted that the Department erred when it determined the unearned income total, but the income from unemployment and social security clearly exceeds the \$903 gross income limit. Thus the Department's error is harmless, as the outcome is not changed. Notwithstanding this mistake, the analysis herein, closing the Claimant's FAP case due to excess income is correct.

The Administrative Law Judge must find that the Claimant is not eligible for FAP, as the Claimant's gross income exceeds the monthly income limit. RFT 250. The Administrative Law Judge has reviewed the original determination and FAP budgets submitted by the Department and found an error with regard to its calculation of gross income, however this error does not change the outcome. Therefore, the undersigned finds that the Department correctly determined the claimant's FAP case should be closed due to ineligibility due to excess income.

The Claimant may wish to reapply for FAP benefits should his unemployment benefits end at some point, as this would cause his gross income to be reduced.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to close the Claimant's FAP case due to excess income is correct and is AFFIRMED.



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

Date Signed: July 29, 2011

Date Mailed: July 29, 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 date of the rehearing decision.

LMF/hw

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