

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.: 2011-3753  
Issue No.: 3015  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: November 29, 2010  
DHS County: Oakland (02)

**ADMINISTRATIVE LAW JUDGE:** Susan C. Burke

**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 November 29, 2010. Claimant appeared and testified. The Department of Human Services (Department) was represented by [REDACTED].

**ISSUE**

Did the Department correctly find that Claimant was not eligible to receive Food Assistance Program (FAP) benefits?

**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 is in a household of three persons.
2. Claimant received an average of \$726.82 per week of earned income from April 23, 2010, through May 21, 2010.
3. Claimant's FAP application was denied on June 11, 2010, due to excess income.
4. Claimant requested a hearing on June 17, 2010, contesting the denial of FAP benefits.

## **CONCLUSIONS OF LAW**

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 CML 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).

### **FIP, SDA, RAP, CDC and FAP**

A group's financial eligibility and monthly benefit amount are determined using:

Actual income (income that was already received).

Prospected income amounts (not received but expected).

Only **countable** income is included in the determination; see BEM 500.

Each source of income is converted to a **standard monthly amount**, unless a full month's income will not be received; see standard monthly amount in this item.

**Available income:** Income actually received or reasonably anticipated. Reasonably anticipated means that the amount of income can be estimated and the date of receipt is known. Available income includes garnisheed amounts and income received jointly; see BEM 500.

**Stable income:** Income received on a regular schedule that does not vary from check to check based on pay schedules or hours worked. Examples: a job in which the paycheck amounts don't vary and are paid on a regular schedule; or RSDI or SSI.

Determine budgetable income using countable, available income for the benefit month being processed.

### **Past Months**

Use actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate; see Standard monthly amount in this item.

Use past income to prospect income for the future unless changes are expected:

Use income from the **past 30 days** if it appears to accurately reflect what is expected to be received in the benefit month.

The 30-day period used can begin up to 30 days before the interview date or the date the information was requested.

**Exception:** For FAP only, when processing a semi-annual contact, the 30-day period can begin up to 30 days before the day the DHS-1046, Semi-Annual Contact Report, is received by the client or the date a budget is completed. Any 30-day period that best reflects the client's prospective income within these guidelines can be used.

Discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. Document which pay is being discarded and why. For example, the client worked overtime for one week and it is not expected to recur.

A standard monthly amount must be determined for each income source used in the budget.

### **Stable and Fluctuating Income**

Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

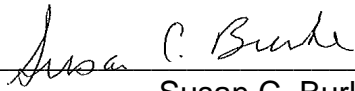
Multiply weekly income by 4.3.

BEM 505

In the present case, Claimant's average weekly income was \$726.83. The countable gross income is calculated by multiplying the average weekly income by 4.3. BEM 505 p. 6-7. Claimant's countable gross income is, therefore, \$3,125.37 (726.83 x 4.3). Since Claimant's gross income exceeds the RFT amount of \$3,052.00 (RFT 250), the Department properly denied Claimant's application for FAP benefits. RFT 250.

**DECISION AND ORDER**

Based upon the above findings of fact and conclusions of law, it is concluded that the Department was correct in the determination of FAP benefits, and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.

  
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Susan C. Burke  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: December 2, 2010

Date Mailed: December 6, 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.

SCB/pf

cc:

