

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

IN THE MATTER OF:



Reg. No: 2011-38311

Issue No: 3002



Shiawassee County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

**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 received on June 7, 2011. After due notice, a telephone hearing was held on July 14, 2011. Claimant personally appeared and provided testimony.

**ISSUE**

Did the department properly determine Claimant's eligibility for 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. On May 27, 2011, Claimant applied for FAP benefits. (Department Exhibit 1, pages 1-20).
2. On June 2, 2011, the department mailed Claimant a Notice of Case Action (DHS 1605), informing her that her FAP application had been denied due to excess income. (Hearing Summary).
3. On June 7, 2011, Claimant requested a hearing contesting the department's denial of FAP benefits.

## **CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. Clients have the right to contest a department decision affective eligibility for benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Food Assistance Program (FAP) was established pursuant to 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 400.30001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

All income is converted to a standard monthly amount. If the client is paid weekly, the department multiplies the average weekly amount by 4.3. If the client is paid every other week, the department multiplies the average bi-weekly amount by 2.15. BEM 505.

Countable earnings from self-employment equal 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: (i) 25% of the total proceeds; or (ii) actual expenses if the client chooses to claim and verify the expenses. BEM 502.

The FAP program provides a deduction from earned income of 20%. A standard deduction from income of [REDACTED] is also allowed. Another deduction from income is

provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of [REDACTED] for non-senior/disabled/veteran households. BEM 500 and 554; RFT 255; 7 CFR 273.2.

In the instant case, Claimant is disputing the department's denial of FAP benefits. According to the department, Claimant reported her husband earned a gross of [REDACTED] each month. The department credited her husband with the 25% self-employment deduction, and budgeted \$1,650.00 as his income.

Claimant submitted paystubs from her employer showing she earned [REDACTED] an hour and was paid biweekly for 80 hours. The department multiplied the [REDACTED] of gross biweekly income Claimant earned, by a 2.15 conversion factor in accordance with the applicable department policy, resulting in total earned income of [REDACTED].

Claimant's monthly earned income of [REDACTED] was added to her husband's [REDACTED] for a total of [REDACTED], which was then reduced by a [REDACTED] earned income deduction and a standard deduction of [REDACTED], which resulted in an adjusted gross income of [REDACTED]. Because Claimant does not qualify for an excess shelter deduction based on her income, Claimant's net income remained [REDACTED].

A claimant with a group size of five has a maximum net income limit of [REDACTED]. RFT 250. Because Claimant's net income of \$3,790.00 exceeded the allowable 100% net income limit of [REDACTED], Claimant is not entitled to FAP benefits for the time period in question.

Claimant testified that she averaged what her husband made over the last year to come up with the [REDACTED] a month figure. Claimant stated he was injured earlier this year and had just gone back to work in May 2011 when she applied for benefits after falling behind on bills. However, based on the information Claimant submitted to the department, and after a thorough review of the FAP budget by this Administrative Law Judge, the department properly determined Claimant's FAP eligibility.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in denying Claimant's FAP application.

The department's actions are AFFIRMED.

It is SO ORDERED.

\_\_\_\_\_/s/\_\_\_\_\_  
Vicki L. Armstrong  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 7/19/11

Date Mailed: 7/19/11

**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.

VLA/ds

