

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

IN THE MATTER OF:

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Reg. No: 2011-3889

Issue No: 3015

Case No: ██████████

Load No: ██████████

Hearing Date:

December 2, 2010

Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Kandra Robbins

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Claimant's request for hearing. After due notice, a [telephone](#) conference hearing was held on [December 2, 2010](#). The claimant was present and testified.

ISSUE

Did the Department properly determine claimant was no longer eligible for the Food Assistance Program (FAP) benefit due to excess income?

FINDINGS OF FACT

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

1. The Claimant was receiving FAP benefits.
2. Claimant submitted income verification for his Semi-annual review.
3. The Claimant admits that he had income in the amount of \$2,748.00.
4. Claimant's son, ██████████ was employed from April 2010 through November 15, 2010 (Department Exhibit 1 pg 6-12).
5. Claimant received child support for 3 children (Department Exhibit 1 pg 27-29).
6. Claimant has a monthly housing expense as well as heat and utility bills.

7. The Department completed claimant's FAP budget for Certification period March 23, 2010 through February 28, 2011 (Department Exhibit 1 pg 1-3).
8. The Department sent the claimant notice that his monthly FAP allotment was closed because of excess income.
9. On August 30, 2010, the Department received the claimant's Request for Hearing DHS 1605 protesting the Department's determination of his FAP allotment.

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 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1) An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2)

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM). Department Policy states:

DEFINITIONS All TOA

Income Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if not paid directly such as income paid to a representative.

Countable Income Countable income is the amount remaining after applying policy in this and other income-related manual items. This is the amount used to determine eligibility and benefit level.

Earned Income Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Some rental income is considered earned; see [BEM 504](#).

Income from Rental/Room and Board.

Unearned Income Unearned income is all income that is not earned.

Gross Income Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. (BEM 500).

Bridges will assist you in determining who must be included in the Food Assistance Program (FAP) group prior to evaluating the nonfinancial and financial eligibility of everyone in the group.

FAP group composition is established by determining:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately, and
4. Whether the person(s) resides in an eligible living situation (see Living Situations). (BEM 210.)

Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child has his/her own spouse or child who lives with the group. (BEM 210).

The Department is required to count the claimant's total gross income in determining the claimant's eligibility for FAP benefits. The claimant had earned income in the amount of \$2,748.00. The Department determines a FAP group's net income by deducting certain allowable expenses. These expenses include shelter expenses. The claimant had a housing expense and a heat and utility deduction of \$588.00. After calculating the standard deductions, the claimant total net income was properly calculated to be \$2,066.00. The federal regulations provide standards for income and the amount of household benefits. In accordance with federal regulations, the

Department has prepared income and issuance tables which can be found at RFT 250. The issuance table provides that the income limit for a group of 2 is \$1,174.00 (RFT 250). The Department's FAP eligibility determination was correct based on the verification that the claimant submitted to the Department at the time.

DECISION AND ORDER

This Administrative Law Judge, based upon the above findings and conclusion of law, decides that the Department correctly determined the claimant to have excess income and no longer eligible for the FAP program.

It is so ORDERED.

/s/ _____

Kandra Robbins
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 6, 2010

Date Mailed: December 7, 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.

KKR/tg

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