

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 August 30, 2011. Claimant personally appeared and provided testimony.

ISSUE

Did the department properly determine Claimant's 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 was an active FAP recipient with a [REDACTED] monthly allotment in February, 2011. (Hearing Summary). Claimant had a group size of 3 (three) at all relevant times. (Department Exhibits 29-31).
2. In February, 2011, Claimant worked at Walmart with a gross income of [REDACTED] and a net income of [REDACTED] (Department Exhibits 41-43; Claimant Exhibit 1).
3. In February, 2011, Claimant's household received [REDACTED] in unearned income from SSI for Claimant's son. (Claimant Exhibits 2 & 3; Department Exhibit 29).
4. On March 10, 2011, the department mailed Claimant a Notice of Case Action (DHS 1605) which decreased her FAP allotment from [REDACTED] for the benefit period beginning April 1, 2011. (Department Exhibit 1).
5. Claimant submitted a hearing request on March 18, 2011 contesting the decrease in her FAP allotment. (Request for a Hearing).

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 Program Reference Manual (BRM).

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.

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.

In the instant matter, the department incorrectly budgeted Claimant's earned income for the benefit period of April 1, 2011 through April 30, 2011. The department's FAP budget sheet for this period indicates that Claimant was receiving monthly net earned income in the amount of [REDACTED] at the time relevant to this matter. This Administrative Law Judge does not have any documentation from the department to support the [REDACTED] earned income amount. However, the documents presented to the Administrative Law Judge during the hearing showed that Claimant worked at Walmart in February and had a gross income of [REDACTED] and a net income of [REDACTED]. The department did not produce any evidence of any other income from Claimant's group during this period. The department's calculation of Claimant's unearned income ([REDACTED]) from her son's SSI is accurate, however. Thus, based on the evidence presented to the Administrative Law Judge in this matter, the department should have properly budgeted Claimant's total income for February, 2011 as [REDACTED] rather than [REDACTED].

Accordingly, Claimant's total monthly income of [REDACTED], which is reduced by a 20% earned income deduction of [REDACTED] and a standard deduction of \$141.00, leaves an adjusted gross income of [REDACTED]. ([REDACTED]). A claimant with a group size of 3 (three) with a monthly net income of [REDACTED] has a FAP allotment of [REDACTED]. RFT 260.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not act in accordance with policy in determining Claimant's FAP eligibility when it determined on March 10, 2011 that Claimant's FAP allotment was [REDACTED]

The department's decision is REVERSED and the department is hereby ordered to redetermine Claimant's FAP eligibility for the benefit period of April 1, 2011 through April 30, 2011. The department is further ordered to issue any retroactive FAP benefits that Claimant is otherwise eligible to receive.

It is SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 9/19/11

Date Mailed: 9/19/11

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.

CAP/ds

[REDACTED]