

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

IN THE MATTER OF:



Hearing

Reg. No: 2011-44634

Issue No: 3015

Case No:

Date:

August 18, 2011

Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 18, 2011. Claimant and her husband appeared and testified.

ISSUES

Did the Department of Human Services (department) properly terminate the claimant's Food Assistance Program (FAP) benefits 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 FAP benefit recipient.
2. Claimant's FAP case was scheduled for redetermination in April 2011.
3. After processing the redetermination application, the department caseworker determined that claimant was no longer eligible to receive FAP benefits because she possessed excess income.
4. On July 12, 2011, the department caseworker sent claimant notice that her FAP benefits would be cancelled effective May 31, 2011, based upon excess income.

5. On July 15, 2011, claimant filed a request for a hearing to contest the department's negative action.
6. Claimant receives RSDI income in the gross monthly amount of \$ [REDACTED]. Claimant's daughter receives a gross monthly RSDI amount of \$ [REDACTED]. Claimant's husband receives RSDI in the gross monthly amount of [REDACTED].
7. Claimant's total gross monthly income is \$ [REDACTED].
8. The FAP monthly gross income limit for a 3 person household group is \$ [REDACTED].

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 (PRM).

Department policy states:

RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) (AKA SOCIAL SECURITY BENEFITS)

All Programs

RSDI is available to retired and disabled persons, their dependents, and survivors of deceased workers.

Count the gross benefit amount as unearned income. PEM, Item 500, p. 29.

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits.

A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits.

Use **only** available, countable income to determine eligibility. The BEM 500 series defines countable income. BEM 505 defines available income and income change processing. This item describes income budgeting policy.

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered.

Budget the entire amount of earned and unearned countable income. Gross countable earned income is reduced by a 20% earned income deduction. Every case is allowed the standard deduction shown in RFT 255. BEM 255, page 1.

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. PEM 500. A standard deduction from income of \$ [REDACTED] is allowed for each household. Certain non-reimbursable medical expenses above \$ [REDACTED] a month may be deducted for senior/disabled/veteran group members. 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; Program Reference Manual, Table 255; 7 CFR 273.2.

The claimant testified that she can't afford food for the entire month without any assistance.

The claimant's grievance centers on dissatisfaction with the department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

Unfortunately, the Administrative Law Judge has no equity powers. The department is required to follow a formula set by the federal government and cannot deviate from that formula in determining eligibility for FAP benefits.

The claimant has a total monthly gross unearned income of \$ [REDACTED] ([REDACTED] + [REDACTED]). Once the appropriate deductions are taken, the claimant has a net monthly income of \$ [REDACTED]. The monthly net income limit to receive FAP benefits for a group of three is \$ [REDACTED] RFT 250. Thus, the claimant does have excess income and is not eligible for FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied the claimant's FAP application based upon the determination that claimant's household group possessed excess income.

Accordingly, the department's determination is AFFIRMED.

_____/s/

Landis

Y. Lain
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 23, 2011

Date Mailed: August 24, 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.

LYL/alc

cc:

