

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-45139
Issue No: 3002

[REDACTED]

Jackson 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 July 27, 2011. After due notice, a telephone hearing was held on August 25, 2011. Claimant personally appeared and provided testimony.

ISSUE

Did the department properly determine Claimant's Food Assistance Program (FAP) eligibility?

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 July 1, 2011, Claimant submitted her Redetermination packet to the department. (Department Exhibits 1-6).
2. The department mailed Claimant a Notice of Case Action on July 19, 2011, notifying Claimant that on processing her Redetermination packet, she had been approved for [REDACTED] in FAP benefits beginning August 1, 2011. (Department Exhibits 11-16).
3. Claimant submitted a hearing request on July 27, 2011, protesting the amount of her FAP benefits. (Request for a Hearing).

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. 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).

Clients have the right to contest a department decision affecting eligibility or 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. 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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.

In this case, Claimant was contesting the department's FAP eligibility determination of [REDACTED]. The department explained that based on the SOLQ report dated June 28, 2011, Claimant's son was receiving \$912.00 per month in RSDI. As a result of including Claimant's son's income in the budget, Claimant's FAP benefits were reduced to [REDACTED] a month. Claimant is not disputing the department's actions because the information they based their actions on is correct.

However, Claimant testified that her son does not receive the RSDI. It is her mother who receives the checks in his name but does not share the money with her or her son. According to departmental policy, income paid to an individual acting as a representative for another individual is **not** the representative's income. The income is the other individual's income. BEM 500. In other words, the RSDI check does not belong to Claimant's mother, even though she is the designated representative according to the social security administration to receive Claimant's son's RSDI checks.

Common representatives include legal guardians, court-appointed conservators, the minor children's parents and representative payees. BEM 500. The Social Security Administration issues the RSDI to Claimant's mother for the benefit of Claimant's son. If, as Claimant is testifying and the department is not disputing, Claimant's mother is not using that income for the benefit of Claimant's son, that is a separate issue that Claimant must take up with the Social Security Administration because this Administrative Law Judge has no authority to address that issue.

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 determining Claimant's FAP eligibility.

The department's FAP eligibility is AFFIRMED.

It is SO ORDERED.

/s/

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

Date Signed: 8/29/11

Date Mailed: 8/29/11

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 mailing 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

