

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 20115961  
Issue No: 3015  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
December 15, 2010  
Kalamazoo 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 November 5, 2010. After due notice, a telephone hearing was held on December 15, 2010. Claimant personally appeared and provided testimony.

**ISSUE**

Whether the department properly closed Claimant's Food Assistance Program (FAP) case 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. Claimant submitted DHS-1010 Redetermination on September 16, 2010, listing income from Ohio National Life Insurance Company. (Department Exhibit 3).
2. Claimant received \$11,111.11 on May 3, 2010 and \$6,250.00 on August 26, 2010 from her annuity at Ohio National Life Insurance Company. (Department Exhibits 4 and 5).
3. The department mailed Claimant a Notice of Case Action on October 20, 2010 closing Claimant's FAP case because her gross income exceeded the limit. (Department Exhibit 2).

4. Claimant submitted a hearing request on November 5, 2010, protesting the closing of her FAP case. (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 or her 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

All countable earned and unearned gross income available to the client must be considered in determining the client's eligibility for FAP benefits. 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 department must count the gross benefit amount before any deductions, unless department policy states otherwise. 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 most cases, the department's estimate of the client's future monthly income will not equal the actual income that the client receives. However, as long as the department uses the best available information to determine future income, and there is no

concealed information or mathematical error, the department's estimate will not be determined inaccurate. All income is converted to a monthly amount. BEM 505.

Payments an individual receives from an annuity are unearned income. Bridges counts annuity payments as the individual's unearned income. BEM 503. The department uses actual gross income amounts received for past month benefits and converts the gross income to a standard monthly amount, when appropriate. For a contractual single payment income received in one month that is intended to cover several months, a standard monthly amount is established by dividing the income by the number of months it covers. This amount is considered available during each month covered by the income. BAM 505.

A non-categorically eligible, non- Senior/Disabled/Veteran (SDV) FAP group must have monthly income below the gross and net income limits. Income is always calculated on a calendar month basis to determine eligibility and benefit amounts. BEM 550.

In this case, Claimant received \$11,111.11 in May 2005 and \$6,250.00 in August of 2005 from her annuity for a total of \$17,361.11. Claimant stated that her annuity is her only source of income and she uses it to pay all of her bills, including mortgage, home owner's insurance, car insurance, doctor bills and prescriptions.

In determining Claimant's monthly gross income, the department divided Claimant's gross income of \$17,361.11 by six months as indicated by Claimant, for a result of \$2,893.00 in monthly gross income. The federal regulations at 7 CFR 273.10 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. A claimant with a group size of one has a maximum monthly gross income limit of \$1,174.00. RFT 250. Claimant's monthly gross income of \$2,893.00 exceeded the allowable 130% gross income limit of \$1,174.00.

In determining Claimant's monthly net income, the standard deduction of \$141.00 was deducted from Claimant's gross monthly income of \$2,893.00 resulting in an adjusted gross income of \$2,752.00 a month. The department determines a FAP group's net income by deducting certain allowable expenses. These expenses include dependent care expenses, child support expenses and shelter expenses. BEM 554. Claimant had shelter expenses only. Effective September 2010, Claimant's monthly rent was \$496.21 and she had a monthly heat/utility obligation. The department properly gave Claimant the heat/utility (including telephone) standard of \$588.00. RFT 255.

Claimant's total shelter expense was properly determined to be \$1,084.00. Pursuant to departmental policy, 50% of \$2,752.00, Claimant's adjusted gross income, must be deducted from her total shelter. ( $\$2,752 \times 50\% = \$1,376$ ). Since Claimant's total shelter expense of \$1,084.00 is less than 50% of the adjusted gross income of her FAP group, or \$1,376.00, Claimant did not have any excess shelter expense. The department was required to deduct any excess shelter expense from Claimant's adjusted gross income of \$2,752.00. Since Claimant did not have any excess shelter, her monthly net income remains \$2,752.00. BEM 556.

A client with a group size of one has a maximum monthly net income limit of \$903.00. RFT 250. Because Claimant's monthly net income of \$2,752.00 exceeded the allowable 100% monthly net income limit of \$903.00 and Claimant's monthly gross income of \$2,893.00 exceeded the allowable 130% monthly gross income limit of \$1,174.00, Claimant is not entitled to FAP benefits for the time period in question. BEM 550.

Claimant testified that the income from her annuity is her only source of income and she used the majority of the monies from her annuity to pay her medical bills, which the department did not take into account in determining her FAP eligibility. However, the department may only deduct medical expenses over \$35.00 in determining a FAP budget for clients who are senior, disabled, or disabled veterans pursuant to departmental policy. BEM 554; BEM 556. Claimant stated she has been denied SSI numerous times and at this point in time is not senior, disabled or a disabled veteran. Therefore, the department properly determined Claimant's FAP budget without deducting her medical expenses.

**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 determination is AFFIRMED.

SO ORDERED.

/s/ \_\_\_\_\_  
Vicki L. Armstrong  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: December 28, 2010

Date Mailed: December 28, 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.

VLA 

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