

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.: 2011-8452
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: February 7, 2011
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing was held in Warren, Michigan on Monday, February 7, 2011. The Claimant appeared and testified. The Claimant was represented by [REDACTED] of [REDACTED] and [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's food assistance ("FAP") application due to excess income?

FINDINGS OF FACT

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

1. The Claimant submitted an application for public assistance seeking FAP benefits on September 14, 2010.
2. The Claimant's group size is 6.
3. The Claimant receives unemployment compensation benefits in the bi-weekly amount of \$724.00.
4. The Claimant's spouse is self employed.
5. The spouse's average net earnings for the months of June, July, and August 2010 were in excess of \$2,500.00.

6. As a result of the household income, the Department found the Claimant ineligible for FAP benefits. (Exhibits 3, 4, 5)
7. On October 13, 2010, the Department sent a Notice of Case Action to the Claimant informing her that her FAP benefits were denied due to excess income. (Exhibit 6)
8. On October 18, 2010, the Department received the Claimant's timely written request for hearing.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

For FAP purposes, all earned and unearned income available to the Claimant is countable. BEM 500 Countable income from self-employment is the total proceeds less any allowable expenses. BEM 500, 502 Allowable expenses are the higher of 25% of the total proceeds or actual expenses if the client chooses to claim and verify the expenses. BEM 500, 502 Allowable expenses are any identifiable expense of producing self-employment income except depreciation on equipment, real estate or other capital investment; a net loss from a previous period; federal, state, and local income taxes; personal entertainment or other personal business expense; or money set aside for retirement. BEM 502 Self-employment expenses are verified by receipts. BEM 502 Gross unemployment compensation benefits are counted as unearned income. BEM 503

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 Prospective budgeting is the best estimate of the client's future income for future benefits. BEM 505 All income is converted to a monthly amount. BEM 505 A standard monthly amount must be determined for each income source used in the budget. BEM 505 Weekly benefit amounts are converted to a monthly amount by multiplying the weekly amount by 4.3. BEM 505 Bi-weekly amounts are converted by multiplying the amount by 2.15. BEM 505

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Monthly gross income limit for a group size of 6 is \$3,200.00. RFT 250 Monthly net income limit for a group size of 6 is \$2,461.00. RFT 250

In this case, the Claimant submitted verification regarding her spouse's self-employment income and expenses. The spouses gross earnings for the months of June, July, and August were approximately \$36,000.00. During this same period, the expenses were just over \$37,000.00. In review of the expenses, lease payments in the amount of \$17,954.00 were made in order to catch up on past due rent. The actual monthly rental obligation was \$2,672.00, or \$8,016.00 for the three month period. The Department properly allowed the actual monthly rental obligation, not the past due amounts. As a result, the average net self-employment income was over \$2,500.00 each month. During this time, the Claimant received unemployment compensation benefits in the bi-weekly amount of \$724.00. The Department correctly prospectively budgeted the Claimant's unemployment income as \$1,556.00 (\$724.00 x 2.15). The Claimant's unearned income plus the spouse's self-employment net income exceed FAP income limits. Ultimately, the Department established it acted in accordance with department policy when it denied the Claimant's FAP benefits due to excess income. Accordingly, the Department's actions are AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law the Department established it acted in accordance with department policy when it denied the Claimant's FAP application due to excess income.

Accordingly, it is ORDERED:

The Department's determination is AFFIRMED.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 2/16/2011

Date Mailed: 2/16/2011

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

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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 of the rehearing decision.

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