

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.: 2011-8475
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 5, 2011
DHS County: Macomb (50-20)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on January 5, 2011. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly closed Claimant's Food Assistance Program (FAP) grant?

FINDINGS OF FACT

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

1. In 2010, Claimant received FAP benefits of \$350 and then \$312 per month.
2. In September 2010, DHS conducted a semi-annual review and requested current information from Claimant.
3. Based on current information, DHS determined that Claimant had income that exceeded the maximum allowed for a person to receive FAP benefits.
4. On November 2, 2010, DHS closed Claimant's FAP benefits case.
5. Claimant filed a request for hearing on November 5, 2010.

CONCLUSIONS OF LAW

FAP was established by the Food Stamp Act of 1977 and is implemented by Federal regulations in Title 7 of the Code of Federal Regulations. DHS administers the FAP program pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules 400.3001-400.3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The manuals are the policies and procedures that DHS officially created for its own use. While the manuals are not laws created by Congress or the Michigan State Legislature, they constitute the legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policies are, I will examine whether they were in fact followed in this case.

I will first address the FAP calculation. FAP calculations are made in accordance with BEM 550, "FAP Income Budgeting." I have reviewed this BEM Item in its entirety. BEM 550 requires that income shall be calculated on a monthly basis and that every person shall receive a standard deduction.

I now look to see if DHS properly applied BEM 550 in the calculation of Claimant's FAP benefits. I find that DHS used the current income information provided by Claimant and gave Claimant the standard deduction. I find that DHS correctly closed Claimant's FAP case. I AFFIRM the DHS action taken in this case. DHS need take no further action in this case.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge AFFIRMS the action taken by DHS in this case. DHS need take no further action in this case.



Jan Leventer
Administrative Law Judge
for Duane Berger, Director
Department of Human Services

Date Signed: January 10, 2011

2011-8475/JL

Date Mailed: January 11, 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.

JL/pf

cc:

