

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-13687
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: January 10, 2012
County: Isabella

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on January 10, 2012 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Due to excess income, did the Department properly close Claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. At all relevant times, Claimant was an active FAP recipient.
2. Claimant had a fiscal group size of 4 (four) at all times.
3. On September 14, 2011, the Department mailed Claimant a Redetermination packet (DHS-1010). Among other things, the DHS-1010 sought proof of the last 90 days for child support and self-employment income/expenses records.
4. Claimant returned the Redetermination packet on September 27, 2011 which indicated that Claimant's job terminated on September 19, 2011, but that her husband was self-employed.
5. Claimant reported on the Redetermination packet that her husband's income was "very inconsistent."

6. Claimant's husband was the partial owner of a business partnership known as [REDACTED], LLC."
7. On November 4, 2011, Claimant provided the Department with Federal Income Tax Returns from 2010 pertaining to [REDACTED] and Profit & Loss Statements.
8. According to the Claimant's documentation, MTW's income for the 90 days was [REDACTED] and Claimant's husband's share (divided by two) was [REDACTED].
9. On November 16, 2011, the Department mailed Claimant a Self-Employment Income and Expense Statements (DHS-431) which requested proof of income and expenses for August, September and October (2011).
10. Claimant returned the DHS-431s which indicated the following: (1) August income [REDACTED] and expenses [REDACTED]; (2) September income \$ [REDACTED] and expenses [REDACTED]; and (3) October income [REDACTED] and expenses [REDACTED].
11. Claimant's DHS-431 indicated a loss of income but the Profit & Loss Statements indicated a profit.
12. On November 21, 2011, the Department closed Claimant's FAP case due to excess income. The closure was based on the Department determination that Claimant's monthly income was [REDACTED].
13. On November 21, 2011, the Department sent Claimant notice of the closure.
14. On November 22, 2011, Claimant filed a hearing request, protesting the closure of the case.

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. 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. The department's 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. 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), 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.

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. All income is converted to a standard monthly amount. The FAP income limits for a group size of 4 is [REDACTED] RFT 250.

An individual who runs their own business is self-employed. BEM 502. This includes but is not limited to selling goods, farming, providing direct services, and operating a facility that provides services such as adult foster care home or room and board. BEM 502.

Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. BEM 502. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income except for farm loss amounts. BEM 502. Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. BEM 502.

Allowable expenses include all of the following: (1) identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.; (2) interest and principal on loans for equipment, real estate or income-producing property; (4) insurance premiums on loans for equipment, real estate and other income-producing property; (5) taxes paid on income-producing property; (6) transportation costs while on the job (example: fuel); (7) purchase of capital equipment; (8) a child care provider's cost of meals for children¹; (8) any other identifiable expense of producing self-employment income except those listed below. BEM 502.

Policy prohibits the following expenses to be entered into the Department's computer system (known as "Bridges"): (1) a net loss from a previous period; (2) federal, state and local income taxes; (3) personal entertainment or other individual business expenses; (4) money set aside for retirement and (5) depreciation on equipment, real estate or other capital investments. BEM 502.

¹ Costs for the provider's own children are not allowed.

The Department required to verify countable income at all of the following: (1) application, including a program add, prior to authorizing benefits; (2) at member add, only the income of the member being added; (3) redetermination; (4) when program policy requires a change be budgeted;²

The client has primary responsibility for obtaining verification. BEM 502. The Department shall not deny assistance because an individual is unable to verify income. BEM 502. The Department must assist the client in obtaining verification when requested. BEM 502.

Policy lists the following as appropriate verification sources for self-employment income: (1) business receipts; (2) accounting or other business records; (3) income tax returns (4) other acceptable method that provides needed information. (5) DHS-431, Self-Employment Statements. BEM 502. For self-employment expense, Department policy provides that receipts are the only acceptable verification source. BEM 502.

Here, the Department was unable to verify the Claimant's self-employment income because Claimant refused to turn over MTW's actual receipts from August, September and October, 2011. During the hearing, Claimant testified that she was unable to provide the receipts because they were too voluminous. Later during the hearing, Claimant stated that her husband's business partner was uncomfortable providing the actual receipts. Policy specifically provides that in order for Claimant's self-employment expenses to be considered to off-set income, she must provide receipts as proper verification. Claimant refused to do so. Thus, Claimant's total income of [REDACTED] divided by 3 (August, September and October, 2011) equals [REDACTED]. Accordingly, the Department's determination that Claimant's monthly income was [REDACTED] was appropriate.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that, due to excess income, the Department properly closed Claimant's FAP case due to excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly.

² *Exception:* For FIP, RAP, SDA, CDC and FAP, the Department shall verify income that decreases or stops but not verify starting or increasing income unless income change information is unclear, inconsistent or questionable. The Department will then select starting or increasing income as the verification source. BEM 502.

Accordingly, the Department's FAP decision is AFFIRMED.

/s/

C. Adam Purnell
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 1/17/12

Date Mailed: 1/17/12

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error , or other obvious errors in the hearing decision that effect the substantial rights of the claimant;
 - the failure of the ALJ to address other relevant issues in the hearing decision

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CAP/ds

