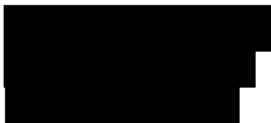


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201253538
Issue No: 3002
Case No: [REDACTED]
Hearing Date: June 20, 2012
Genesee County DHS #6

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 telephone hearing was held on June 20, 2012. The claimant personally appeared and provided testimony.

ISSUE

Whether the department properly reduced the claimant's benefits for the Food Assistance Program (FAP)?

FINDINGS OF FACT

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

1. The claimant was a recipient of FAP benefits at all times pertinent to this hearing.
2. The department became aware that the claimant received an extension of his unemployment compensation benefits as of December 7, 2011. (Department Exhibit 1).
3. The department then completed a budget using the claimant's unemployment compensation benefits as unearned income.
4. As a result of the unearned income being budgeted, the department reduced the claimant's FAP benefits and sent the claimant a notice of case action (DHS 1605) on April 10, 2012 stating that the claimant's FAP benefits would be decreasing effective May 1, 2012.
5. The claimant filed a request for hearing on May 10, 2012, protesting the reduction of his FAP benefits.

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 of that decision. 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).

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.

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 calculating a claimant's budget, the department is to use gross income. Gross income is income is the amount of income before any deductions such as taxes or garnishments. BEM 500.

In the case at hand, the department representative testified that the income used for the claimant was the amount of unemployment compensation benefits reported to the department. The claimant testified that he does not receive the amount of unemployment benefits reported to the department but was not able to provide any evidence to support that assertion. Accordingly, the Administrative Law Judge finds that the department did use the proper income amount to calculate the claimant's budget.

However, the claimant testified that he had informed the department by way of an application for assistance (DHS 1171) that his group size had increased due to his son moving into his home. After the hearing, the department complied with the Administrative Law Judge's request and faxed over a copy of the 1171 in question. The application states that it is for FAP, FIP, and MA benefits and does list all three of the claimant's children as living with him.

Therefore, the claimant notified the department that his group size had increased and the department should have included the increase in group composition when his new budget was calculated. BEM 212 states that a member add that increases benefits is effective the month after it is reported. Because the claimant reported the member add on March 22, 2012, the child in question should have been added to his case to affect benefits for the month of April 2012. Accordingly, the Administrative Law Judge finds that the department did not properly reduce the claimant's FAP benefits because the claimant's group composition was not properly determined when the budget was calculated.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly reduced the amount of the claimant's FAP benefits.

Accordingly, the department's actions are **REVERSED**.

It is HEREBY ORDERED that the department shall initiate a redetermination of the claimant's FAP eligibility and recalculate the claimant's budget using the claimant's proper group size to affect the claimant's FAP benefits starting with the month of April 2012. If the claimant is found to be otherwise eligible, the department shall issue benefits accordingly and, if applicable, issue any past due benefits due and owing that the claimant is otherwise eligible to receive.

/s/ _____

Christopher S. Saunders
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 25, 2012

Date Mailed: June 25, 2012

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.

CSS/cr

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