

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201268905
Issue No: 3015
Case No: [REDACTED]
Hearing Date: September 19, 2012
Macomb-20 County DHS

ADMINISTRATIVE LAW JUDGE: COREY A. ARENDT

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 September 19, 2012 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Did the Department properly deny Claimant's Family Assistance Program (FAP) application?

FINDINGS OF FACT

I find as material fact, based upon the competent, material, and substantial evidence on the whole record:

1. In July of 2012, the Claimant applied for FAP benefits for a group size of 5.
2. On approximately April 29, 2011, the Claimant received a lump sum payment in the amount of \$ [REDACTED] as part of a stipulated order regarding child support payments. At the time the order was executed, the monthly child support payments were in the amount of \$ [REDACTED]. The order provided the \$ [REDACTED] was 83% of the amount owed for the time period covering April 1, 2011 through August 31, 2012 and was to be allocated for this time period.
3. On or around July 25, 2012, the Department denied the Claimant's July, 2012 FAP application due to excess income.

4. On July 25, 2012, the Department sent the Claimant a notice of denial.
5. On August 1, 2012, the Claimant requested a hearing to protest the July, 2012 FAP denial.

CONCLUSIONS OF LAW

The regulations governing the hearing and a 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). 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 Reference Tables Manual (RFT).

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. All income is converted to a standard monthly amount. If the Client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the Client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505.

Child Support is money paid by an absent parent(s) for the living expenses of a child(ren). Medical, dental, child care and educational expenses may also be included. Court-ordered child support may be either **certified** or **direct**. Certified support is retained by the state due to the child's FIP activity. Direct support is paid to the client. BEM 503.

Court-ordered direct support means child support payments an individual receives directly from the absent parent or the Mi SDU. Bridges counts the total amount as unearned income, except any portion that is court-ordered or legally obligated directly to a creditor or service provider: BEM 505.

After an extensive review of the stipulated order regarding child support payments, I have come to the conclusion that the allotted payment for the time period of April 1, 2011 through August 31, 2012 at the rate of \$ [REDACTED] a month would equal \$ [REDACTED]. The \$ [REDACTED] is the amount the Claimant would have received had the order not been executed. The 83% discount off of the \$ [REDACTED] equals \$ [REDACTED] or approximately \$ [REDACTED] as stated in the order. Therefore, I find the Claimant's interpretation of the order was incorrect. Furthermore, the Claimant argued the payment also covered arrearages that were not taken into account. However, the order does not cover the actual amount that was in arrearage and therefore that amount can not be calculated or deducted from the \$ [REDACTED].

That being said, the allocation of \$ [REDACTED] was to cover the time period of April 1, 2011 through August 31, 2012. That equates to an average monthly allotment of \$ [REDACTED]. Due to the Claimant's group size of 5, the cutoff or income threshold for the FAP program is \$ [REDACTED]. Because the \$ [REDACTED] exceeds the threshold of \$ [REDACTED] the Claimant would not be eligible for the FAP program. Although the Department incorrectly budgeted \$ [REDACTED] a month for child support, I find the calculation to be a harmless error as my calculations would still render the Claimant ineligible for the FAP program.

DECISION AND ORDER

I find, based upon the above findings of fact and conclusions of law that the Department acted in accordance with policy in determining Claimant's FAP eligibility.

The Department's actions are **AFFIRMED**.

/s/

Corey A. Arendt
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: September 21, 2012

Date Mailed: September 21, 2012

NOTICE: The law provides that within 60 days from the mailing date of the above hearing Decision the Respondent may appeal it to the circuit court for the county in which he/she resides or has his or her principal place of business in this state, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Hearing Decision, may order a rehearing.

CAA/LAS

cc:

