

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201220859

Issue No: 3015

[REDACTED] [REDACTED]

Hearing Date: January 24, 2012
Kent County DHS

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 Claimant's request for a hearing. After due notice, a telephone hearing was held on January 24, 2012. The claimant personally appeared and provided testimony. The claimant's son was also present and acted as an interpreter.

ISSUE

Whether the department properly determined that Claimant was not eligible for Food Assistance Program (FAP) benefits due to excess income?

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 submitted an application for Food Assistance Program (FAP) benefits on October 4, 2011.
2. On November 2, 2011, the department sent the claimant a notice of case action (DHS 1605) stating that her FAP application was denied due to excess income. (Department Exhibits 4-5).
3. The claimant filed a hearing request on December 6, 2011 protesting the denial of her application.

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 the case at hand, the department representative testified that the claimant's income was incorrectly entered when calculating her FAP budget. The result of the income being entered incorrectly was that the claimant's application was denied due to excess income. This is the issue that is properly before this Administrative Law Judge. Therefore, the department did not act properly in denying the claimant's application for FAP benefits due to excess income.

Although the following issues are not properly before the Administrative Law Judge and not directly pertinent to the matter to be decided, said issues will be commented on in the following paragraphs.

After it was determined that the claimant's income was improperly entered, the department proceeded to reprocess the claimant's application. The department then determined that the claimant was in noncooperation with child support. However, the department did not produce any evidence to show what the nature of the noncooperation was. The department produced a notice of cooperation from the office of child support stating that the claimant was in cooperation with child support as of November 14, 2011. This notice asserts that the noncustodial parent lives in the home with other family members. Yet there was no evidence presented to show what the original nature of the noncompliance was, when the claimant was notified of the noncompliance, or when the claimant was deemed to be noncompliant. In order to make a finding that the claimant was not in cooperation with child support, the department would be required to show the date and nature of the noncooperation and when the claimant was notified that she was in noncooperation status.

Additionally, the department asserted that after it was determined that the claimant was in cooperation with child support, she was further ineligible because she did not properly identify her group composition on her application. The department asserts that the claimant did not properly identify her husband as living in the home at the time of application. The department bases this assertion on the notice of cooperation that states that the claimant's husband is living in the home as of November 14, 2011. However, the application was filed on October 4, 2011, well before the date that the notice of cooperation states that claimant's husband was living in the home. Therefore, it cannot be found that the claimant did not properly represent her group composition on her application because at the time the application was filed, the representation of her group composition was accurate.

In summation, the issue before this Administrative Law Judge is whether the department properly denied the claimant's FAP application due to excess income. This Administrative Law Judge determines that the department did not properly deny the claimant's application due to excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not act properly in accordance with policy in denying the claimant's FAP application due to excess income.

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

It is HEREBY ORDERED that the department shall reprocess the claimant's FAP application of October 4, 2011 using the proper income that should have been assigned to the claimant. If the claimant is otherwise eligible, the department shall instate benefits 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: February 1, 2012

Date Mailed: February 2, 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.

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