

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED],

Claimant

Reg No: 201014337

Issue No: 3015

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 3, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 conducted on February 3, 2010. The Claimant appeared and testified. Denice Harper, FIS and Lashon McCants, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's Food Assistance Program ("FAP") benefits effective 11/1/09 based on excess income.

FINDINGS OF FACT

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

1. The Claimant was an active recipient of FAP benefits whose case came up for annual review.

2. A FAP gross income test budget was completed which indicated that Claimant did not have excess gross income. (Exhibit A).
3. A FAP budget was then run indicating that Claimant was above the net income limit. (Exhibit B1-2).
4. The Department denied food assistance benefits on November 13, 2009 effective 11/1/09 due to excess net income.
5. Claimant testified that she has a household group of four (4) people who all purchase and prepare food together.
6. The Department testified that the household has unearned income as follows:
 - a) \$674.00/bi-weekly unemployment compensation;
 - b) \$315.00/monthly RSDI for minor son through father's RSDI;
 - c) \$729.00 monthly Child Support (averaged from 3 previous months \$952, \$534 and \$702).
7. There is no disabled, senior or veteran in Claimant's group.
8. The Department budgets indicate that Claimant is categorically eligible for FAP benefits based on enhanced domestic violence authorization.
9. The Claimant testified that she has a rent obligation of \$600.00 per month as of 11/3/09 and is also responsible for payment of utilities in her home.
10. Claimant objected to the FAP denial and filed this appeal. The Department received the Claimant's Request for Hearing on 11/13/09 – the same day that she was notified.
11. The Department failed to continue benefits for Claimant pending the hearing.

CONCLUSIONS OF LAW

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et. seq.* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Program Reference Manual (“PRM”).

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 550. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. *Id.*

In the present case, the evidence shows that Claimant’s group had a net monthly gross income of \$2,436.00 from unemployment compensation, her son’s RSDI and child support. The FAP Gross Income Test screen shows that Claimant is categorically eligible under enhanced domestic violence authorization. (Exhibit A). The prior budget dated 7/2/09 also shows that Claimant was authorized for Domestic Violence Prevention Services (Exhibit E1-E3). The Net Income Test for all FAP groups was applied by the Department presumably because Claimant receives RSDI. However, Claimant is not disabled. Nor is anyone in her household disabled. Rather, Claimant’s son receives an RSDI payment each month because his father is disabled. Furthermore, as Claimant was authorized to receive enhanced domestic violence benefits, she is categorically eligible and the net income test does not apply.

Accordingly, the evidence shows that Claimant’s group income is under the monthly categorical 200% income limit of \$3,676.00 for a group size of four people. RFT 250.

Therefore, Claimant categorically is eligible for FAP benefits. However, Claimant is still over income according to the FAP benefit issuance tables. RFT 260.

The federal regulations define household income to include all earned and unearned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. BEM 550. Under 7 CFR 273.9, as amended, \$144.00 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter are also made. BEM 554. Id. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

When calculating the benefit amount, according to BEM 556, the Shelter set offs are added together to equal A. The income after deductions is divided by two and equals B. $A - B = C$. The lesser of C or the maximum shelter amount set forth in RFT 255 will be deducted from the reduced income in determining the final net amount. The amount of food assistance allotment is established by regulations at 7 CFR 273.10 based on a group's net income.

In the present case, according to the aforementioned policy on budgeting, Claimant's shelter costs equal $\$600.00 + \$555.00 = \$1,155.00$ (A). 50% of the income less deductions = $\$1146.00$ (B). $(A - \$1155) - (B - \$1146) = \$9.00$. Claimant has a net monthly income of $\$2,283.00$. This was obtained by subtracting the standard deduction of $\$144.00$ and the excess shelter amount of $\$9.00$ from the gross income of $\$2,436.00$. A household of four people with a net monthly income of $\$2,283.00$ is entitled to a monthly FAP grant of $\$0.00$ per month. RFT 260. Nor is Claimant entitled to FAP benefits under the economic recovery formula. BEM 550. Accordingly, The Administrative Law Judge finds that the Department's FAP calculation and

termination was in error. However, since Claimant is not entitled to FAP benefits based on her current income, the Department's actions is Affirmed.

In the subject case, despite Claimant filing a hearing request within eleven (11) days of the negative action notice, the Department failed to keep Claimant's FAP benefits open until the hearing pursuant to BAM 600 which states as follows:

A timely hearing request is a request received anywhere in the department:

- Within the pended negative action period; or
- Within eleven days of the effective date of an immediate negative action

While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, the Department must:

- Delete the pending negative action.
- Reinstate program benefits to the former level for a hearing request filed because of an immediate negative action.

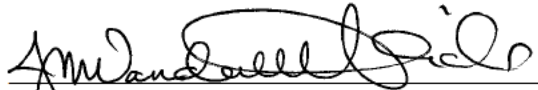
BAM 600. It has come to the attention of the Administrative Law Judge that there is a "hearings button" on Bridges that will over-ride the termination of benefits when a Claimant has filed a hearing request within 11 days. Claimant's FAP benefits should have continued up until the date of the hearing and not continuing the benefits was a violation of Policy. However, since Claimant is not entitled FAP benefits with her current income, the FAP benefits would have been recouped by the Department pursuant to BAM 700, 705, 715 and 725.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly calculated Claimant's income limits for FAP and

failed to keep Claimant's benefits open pending the hearing. Under the proper calculation, however, Claimant is not currently entitled to FAP benefits based on her income.

Accordingly, it is ORDERED that the Department's FAP denial, effective 11/1/09, is AFFIRMED.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/09/10

Date Mailed: 03/11/10

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.

JV/dj

cc:

