

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No. 201052025
Issue No. 3002
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: September 29, 2010
Office: Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 September 29, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], [REDACTED], appeared and testified.

ISSUE

Whether DHS properly reduced Claimant's Food Assistance Program (FAP) benefits beginning 9/1/10 to \$16/month.

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP recipient.
2. Claimant is part of a one-person FAP group.
3. Claimant has an ongoing physical condition which costs her several hundred dollars in medical expenses including costs for prescriptions, doctor visits and medical insurance.
4. Claimant does not consider herself to be disabled as she is able to work despite the costs involved in treating her condition.
5. In 8/2010, Claimant was eligible for \$200/month in FAP benefits.

6. In 8/2010, Claimant was not responsible for a rent obligation, child support expenses or day care expenses.
7. In 8/2010, Claimant received \$644/two weeks in gross unemployment compensation (UC) benefits.
8. After DHS began budgeting Claimant's UC income, DHS reduced Claimant's FAP benefit amount to \$16/month.
9. On 8/13/10 Claimant requested a hearing disputing the reduction in her FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) 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). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 at 1. For groups without a senior (60 years of age or older), disabled or disabled veteran (SDV) member, DHS considers the following: dependent care expense, excess shelter (housing and utilities) up to the maximum allowed amount and court ordered child support and arrearages paid to non-household members. *Id.* DHS may consider medical expenses for any group members that are senior, disabled or a disabled veteran. *Id.* No other expenses may be considered.

Claimant's primary argument is that DHS failed to consider her substantial medical expenses in determining her FAP benefit amount. Claimant asserted that she pays \$414.56/month in health insurance, \$297/month in medical supplies and an unspecified amount for various other medical costs. As stated above, DHS does not consider medical expenses unless it is for a person who is a senior, disabled or a disabled veteran.

Claimant concedes that she is capable of working and not disabled. Claimant is in a very precarious position because though not disabled, she has a physical condition which requires significant attention and expense. Unfortunately, unless Claimant is able to establish that her condition is disabling, Claimant's FAP benefit determination should

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not consider Claimant's medical expenses. It is found that DHS appropriately did not budget Claimant's medical expenses in determining her FAP expenses.

Claimant also disputed her FAP benefit issuance based on the DHS computation. BEM 556 outlines the proper procedures for calculating FAP benefits.

Claimant receives biweekly UC benefits of \$644/two weeks. DHS is to count the gross amount of UC in calculating FAP benefits. BEM 503 at 24. However, \$50/two weeks of the UC income is excluded because it is paid through the American Recovery and Reinvestment Act. BPB 2010-008. Thus, Claimant's countable UC income is \$594/two weeks.

DHS converts biweekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 at 6. Multiplying Claimant's countable biweekly income by 2.15 results in a monthly countable income amount of \$1277.

Claimant's one person FAP group receives a standard deduction of \$132. RFT 255. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$1145.

Claimant does not pay a monthly rent. Effective 3/1/10, all FAP cases are eligible for the heat/utility (h/u) standard even if they do not have a responsibility to pay for heat, utilities or shelter expenses. BPB 2010-008. Per RFT 255, the maximum h/u standard is \$555. Claimant's total shelter expenses are the sum of her rent expense (\$0) and the utility credit (\$555). Claimant's shelter expense is found to be \$555.

Claimant's excess shelter cost is the difference between her housing costs (\$555) and half of Claimant's adjusted gross income (\$1277). Claimant is not eligible for an excess shelter expense as half of her adjusted gross income exceeds her total shelter cost,

Claimant's excess shelter costs (\$0) are subtracted from her adjusted gross income (\$1277) to calculate her net income for purposes of FAP benefit eligibility. As Claimant had no excess shelter costs, her net income is the same as her adjusted gross income, \$1277. Per RFT 260, the correct amount of FAP benefits for a FAP group of one with a monthly net income of \$1277 is \$16/month, the same as calculated by DHS. Though DHS may have determined a slightly different income amount for Claimant, Claimant's benefit issuance remains the same. It is found that DHS properly calculated Claimant's FAP benefits to be \$16/month.

DECISION AND ORDER

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The actions taken by DHS are AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FAP benefits

/s/



Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: October 5, 2010

Date Mailed: October 5, 2010

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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