

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.: 201043699
Issue No.: 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 16, 2010
Office: Macomb County DHS (36)

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 August 16, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, and [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly calculated Claimant Food Assistance Program (FAP) eligibility by failing to consider Claimant's obligations for vehicle and student loan payments.

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 applied for FAP benefits on 6/8/10.
2. Claimant is part of a one-person non-senior, non-disabled, non-disabled veteran FAP group.
3. DHS considered Claimant's gross income, rent obligation and utility obligation in calculating Claimant's FAP benefit eligibility.
4. DHS did not consider Claimant's obligation for vehicle or student loan payments.
5. DHS gave Claimant the maximum utility obligation credit.

6. DHS calculated Claimant to be eligible for \$12/month in FAP benefits for 6/2010 and \$16/month in FAP benefits beginning 7/1/10. Exhibit 1.
7. On 7/15/10, Claimant requested a hearing and contended that DHS should have considered Claimant's obligations for his vehicle payment, student loans and telephone obligation.

CONCLUSIONS OF LAW

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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).

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 at 1. For groups without a senior/disabled/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.* No other expenses may be considered.

Claimant's primary argument is that his student loan and vehicle purchase obligations were not considered in determining Claimant's FAP benefits. Based on BEM 554, these are not allowable expenses. Though the undersigned can sympathize with Claimant about the tightness of Claimant's monthly budget, there is no basis in DHS policy to consider Claimant's vehicle payments or student loan payments in determining Claimant's FAP benefit eligibility.

Claimant also stated that he has a monthly phone obligation that should have been considered. DHS does consider utility obligations in determining FAP benefits. DHS gave Claimant the heat/utility standard in calculation of his FAP benefits. Exhibit 2. The heat/utility (h/u) standard is the maximum credit allowed for utilities and is meant to cover the expense of all utilities including telephone. It is found that DHS properly determined Claimant's FAP benefits by including Claimant's phone obligation (as part of the h/u standard) and excluding Claimant's vehicle and student loan obligations.

The FAP budget was reviewed with Claimant and DHS during the hearing. Based on the amounts reported by Claimant, DHS properly determined Claimant's eligibility for FAP benefits.

DECISION AND ORDER

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 determined Claimant's eligibility for FAP benefits beginning 6/8/10.

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

Date Signed: August 26, 2010

Date Mailed: August 26, 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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