

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.: 201051524
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 27, 2010
Office: Wayne 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 27, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], [REDACTED], appeared and testified.

ISSUE

Whether DHS properly denied Claimant's 8/10/10 application 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. Claimant applied for FAP benefits on 8/10/10.
2. Claimant is part of a five person household which includes herself and her four children.
3. Claimant also has an unspecified number of grandchildren who do not live with Claimant.
4. Claimant is a disabled individual who pays \$150/month in medical expenses.

5. Claimant receives \$477/month in Retirement, Survivors, Disability Insurance (RSDI), \$217/month in Supplemental Security Income (SSI) and \$42/3 months in State of Michigan SSI income.
6. Three of Claimant's children each receive \$722/month in RSDI benefits.
7. Claimant also receives \$270/month in child support for her fourth child.
8. Claimant pays rent of \$798/month and is eligible to receive the maximum utility standard from DHS.
9. On 8/10/10 DHS determined that Claimant has excess-income for FAP benefits.
10. Claimant requested a hearing on 8/17/10 disputing the DHS determination that she was not eligible for 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).

Claimant contended that her income was not sufficient to support herself and her grandchildren. The undersigned may not subjectively determine Claimant's FAP benefit issuance. FAP benefits are determined based on objective factors only. BEM 556 outlines the proper procedures for calculating FAP benefits.

Claimant is part of a five person FAP benefit group which includes herself and her four children. Claimant testified that DHS failed to consider that she lives across the street from her grandchildren whom she often feeds. FAP group composition is established by determining: who lives together, the relationship(s) of the people who live together, whether the people living together purchase and prepare food together or separately and whether the person(s) resides in an eligible living situation (see Living Situations). BEM 212 at 1. DHS is only required to consider persons who live with Claimant as FAP group members. Persons who are temporarily absent from the household may be considered FAP group members. *Id* at 2. Claimant's grandchildren are not absent from Claimant's home, they persons who don't live with Claimant. DHS properly did not consider Claimant's grandchildren in calculation of her FAP benefits. Accordingly, DHS properly calculated Claimant's FAP group as a five-person FAP benefits group.

The FAP group's income is determined by adding the household monthly income. Claimant receives \$477/month in RSDI, \$217/month in federal SSI and \$14/month from State of Michigan SSI. Three of Claimant's children each receive \$722/month.

Claimant also receives child support for her fourth child. DHS is directed to calculate child support by using the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505 at 3. Claimant received the following child support payments in the three months prior to her 8/10/10 application: \$241.01, \$80.83, \$160.68, \$160.67 and \$167.53. Adding the amounts and dividing the total by three yields a monthly child support income of \$270 (dropping cents).

Claimant's total monthly household income is found by adding her monthly incomes. Adding \$477 + \$217 + \$14 + \$722 + \$722 + \$722 + \$270 results in a total monthly income of \$3144.

Claimant's adjusted gross income (AGI) is calculated by taking the total monthly income (\$3144) and subtracting the standard deduction for a FAP benefit group. The standard deduction for a five person FAP benefit group is \$170. Claimant's AGI is found to be \$2974.

Claimant may also receive deductions for paying child support or child care. Claimant did not claim either of these expenses. FAP groups with a senior or disabled person may receive a credit for paying medical expenses. It was not disputed that Claimant was a disabled person. DHS failed to consider Claimant's medical expenses when they originally calculated Claimant's proper FAP benefit issuance. Claimant listed medical expenses on her application requesting FAP benefits. It is found that DHS erred by not requesting verification of Claimant's medical expenses and considering those expenses in determining her FAP benefit amount.

Claimant testified that she has \$150/month in medical expenses. Only medical expenses after the first \$35 are considered in the FAP benefit calculation. BEM 556 at 3. Though the medical expenses were not verified, the undersigned will consider these expenses to determine if counting the medical expenses would make a difference in Claimant's FAP benefit eligibility. \$115 is the proper amount of countable monthly medical expenses.

It was not disputed that Claimant pays \$798/month in rent. Though Claimant testified she is sometimes charged an outrageous late fee of \$75, this fee may not be considered in the FAP benefit determination. DHS properly gave Claimant the maximum utility standard of \$555. Adding Claimant's rent (\$798) and the utility credit (\$555) results in Claimant's monthly shelter obligation of \$1353.

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Claimant's excess shelter is calculated by taking Claimant's total shelter expenses (\$1353) and subtracting half of Claimant's AGI (\$2974) and half of Claimant's countable medical expenses (\$115). Because this calculation results in a negative number, Claimant is not eligible for an excess shelter credit.

Lastly, Claimant net income is calculated by taking Claimant's AGI (\$2974) and subtracting her excess shelter credit (\$0) and her countable medical expenses (\$115). Claimant's FAP benefit group net income is found to be \$2859. Per RFT 260 the correct amount of FAP benefits for a group of five persons with a monthly net income of \$2859 is \$0/month, the same as calculated by DHS. Though DHS erred by failing to consider Claimant's medical expenses, the error did not affect the determination that Claimant had excess-income 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 that Claimant had excess-income for FAP benefits beginning 8/10/10.

/s/


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

Date Signed: September 30, 2010

Date Mailed: September 30, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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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