

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.: 201051997
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 29, 2010
Office: Macomb County DHS (12)

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 9/2010 to \$16/month due to employment 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 was an ongoing FAP recipient.
2. Claimant is part of a two-person FAP household.
3. Neither person in Claimant's FAP group is senior (over 60 years of age), disabled nor a disabled veteran.
4. Claimant has ongoing mortgage costs of \$366.94/month, lot rent of \$530/month and monthly insurance of \$60/month.

5. In 8/2010, DHS began budgeting Claimant's employment income based on check stubs submitted by Claimant.
6. Claimant verified gross employment income for the following pay dates and amounts: \$621.50 for 8/13/10, \$633.88 on 8/6/10, \$588.50 on 7/30/10 and \$605 on 7/23/10. Exhibit 2.
7. On 8/20/10, DHS began to budget Claimant's employment income and determined Claimant to be eligible for \$16/month in FAP benefits beginning 9/1/10.
8. On 9/1/10 Claimant requested a hearing disputing the determination of her 9/2010 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).

For income increases that result in a benefit decrease, action must be taken and notice issued to the client within the Standard of Promptness (FAP - 10 calendar days). The effective month is the first full month that begins after the negative action effective date. BEM 505 at 9.

Claimant's primary argument was that she is entitled to more than \$16/month in FAP benefits for 9/2010. BEM 556 outlines the proper procedures for calculating FAP benefits.

For non-child support income, DHS is to budget income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. *Id* at 4. In the present case, DHS testified that 30 days of Claimant's verified employment income was used beginning with pay 8/19/10. Claimant's average gross weekly employment income for the 30 day period between 7/20/10-8/19/10 is calculated by adding the four gross amounts of the checks that Claimant received and dividing the total amount by four; that amount is found to be \$612.22.

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Weekly income must be converted to a monthly standard by multiplying the average income by 4.3. *Id* at 6. Multiplying the average check by 4.3 results in a monthly employment gross income of \$2632 (dropping cents).

DHS only counts 80% of a FAP member's monthly gross employment income in determining FAP benefits. 80% of Claimant's employment income is \$2105 (dropping cents).

Claimant's two 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. Claimant's adjusted gross income amount is found to be \$1973.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 at 1. For groups without a senior, disabled or disabled veteran (SDV) member, DHS considers the following expenses: child care, 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 contended that DHS should consider her gasoline expense in driving to her employment, credit card debt, loan default payment and housing supplies. None of these expenses may be considered by DHS in any FAP determination budget. Claimant also indicated that she has prescription drug costs. As stated above, these costs may be considered, but only for a senior, disabled or disabled veterans; Claimant is neither a senior, disabled nor disabled veteran. DHS properly did not include Claimant's medical expenses, gasoline expense, credit card debt, loan default payment or her housing supplies in calculating her FAP benefits.

Claimant's total shelter cost includes the monthly cost of her mortgage, lot rent, insurance and utilities. Claimant testified that she pays monthly costs of \$366.94 for a mortgage, \$560 for lot rent and \$60 for property insurance. Effective 3/1/10, all FAP cases are eligible for the maximum 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. The sum of Claimant's shelter costs ($\$366.94 + \$560 + \$60 + \555) is found to be \$1542 (rounding to nearest dollar).

Claimant's excess shelter amount is the difference between Claimant's housing cost (\$1542) and half of Claimant's adjusted gross income (\$1973); that amount is \$555 (dropping cents). In Claimant's circumstances, the actual excess shelter amount (\$555) is more than the shelter maximum deduction of \$459. As a FAP group without a senior,

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disabled or disabled veteran member, Claimant's excess shelter is capped at the \$459 amount.

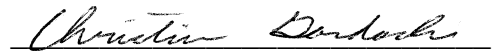
Claimant's excess shelter costs (\$459) are subtracted from her adjusted gross income (\$1973) to calculate her net income for purposes of FAP benefit eligibility. Claimant's net income is found to be \$1514. Per RFT 260 the correct amount of FAP benefits for a FAP group of two with a monthly net income of \$1514 is \$16/month, the same as calculated by DHS. Though DHS may have determined a slightly different income and expense 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.

DHS followed all necessary procedures in issuing notice to Claimant of the FAP reduction. It is found that DHS properly reduced Claimant's FAP benefits to \$16/month effective benefit month 9/2010.

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 reduced Claimant's FAP benefits to \$16/month effective 9/1/10.

/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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