

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: 201054139

Issue No: 3003

[REDACTED]

Hearing Date:

October 13, 2010

Kent County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on October 13, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly determine the amount of Claimant's Food Assistance Program (FAP) benefits?

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 recipient of Food Assistance Program (FAP) benefits. Claimant's financial eligibility budget included shelter expenses of a [REDACTED] mortgage payment, a [REDACTED] condominium association fee, and [REDACTED] for the heat and utility standard. Claimant had to sell his condominium for less than the mortgage balance.
2. On August 23, 2010 the Department received a Shelter Verification (DHS Form 3688) showing Claimant's new shelter expenses. Claimant's financial eligibility budget was updated and he was sent a Notice of Case Action (DHS-1605) stating his Food Assistance Program (FAP) benefits were reduced.
3. On September 7, 2010 Claimant submitted a request for hearing.

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 (DHS or department) 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 Program Reference Manual (PRM).

In this case Claimant's primary concern is that a payment he makes on a credit card settlement is not being used in his financial eligibility budget to determine the amount of Food Assistance Program (FAP) benefits he is eligible for. Claimant testified that the majority of the amount owed on the credit card, were charges he made to pay his mortgage, taxes, and utilities for the condominium prior to selling it and during the period when those expenses were a part of his Food Assistance Program (FAP) financial eligibility budget. Claimant asserts the monthly payment he makes on the credit card settlement now, should be used as shelter expenses for determining his current FAP eligibility.

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

BEM 554 FAP ALLOWABLE EXPENSES AND EXPENSE BUDGETING

DEPARTMENT POLICY

This item applies **only** to FAP.

Bridges uses certain expenses to determine net income for FAP eligibility and benefit levels.

- For groups with **no** senior/disabled/disabled veteran (SDV) member, Bridges uses the following:
 - Dependent care expense.
 - Excess shelter up to the maximum in RFT 255.
 - Court ordered child support and arrearages paid to non-household members.
- For groups **with** one or more SDV member, Bridges uses the following; see BEM 550:
 - Dependent care expense.
 - Excess shelter.
 - Court ordered child support and arrearages paid to non-household members.
 - Medical expenses for the SDV member(s) that exceed .

Complete either a manually-calculated or Bridges budget to document expenses every time an expense change is reported.

ALLOWABLE EXPENSES

An expense is allowed if all of the following:

- The service is provided by someone outside of the FAP group.
- Someone in the FAP group has the responsibility to pay for the service in money.
- Verification is provided, if required.

Responsibility to Pay

Responsibility to pay means that the expense is in the name of a person in the FAP group.

Exception: If the expense is in someone else's name, allow the expense if the FAP group claims the expense, **and** the service address on the bill is where they live.

Do **not** allow any expense if the entire expense is directly paid by an agency or someone outside of the group.

An expense that is fully reimbursed is not allowed; see BEM 500, Reimbursements.

If an expense is partially reimbursed or paid by an agency or someone outside of the FAP group, allow **only** the amount that the group is responsible to pay, **unless** specific policy directs otherwise.

Example: HUD pays \$ [REDACTED] toward a FAP group's [REDACTED] rental expense. Allow only the \$175 (\$ [REDACTED]) that the group is expected to pay.

Shared Expenses

Allow only the FAP group's portion of child support, medical or dependent care expenses if another person outside of the FAP group is jointly responsible. If the FAP group's share can be identified, allow that portion. Otherwise, the expense is evenly prorated among the groups responsible for it and the FAP group's prorated share is allowed.

Note: Shelter, the heat and utility standard and the individual utility standards are **never** prorated, even if the expense is shared. Refer to the following sections found in this item:

- Shelter expenses.
- Mandatory heat and utility standard.
- Mandatory individual standards.

Member Removal

The expenses of a FAP member who is no longer living with the group are removed when the member removal is processed.

Verification

You **must** verify the responsibility to pay and the amount of certain expenses. See the individual expense policy for verification requirements.

Document verification in the case record.

Do **not** budget expenses that require verification until the verification is provided. Determine eligibility and the benefit level without an expense requiring verification if it cannot be verified.

Note: Do **not** include a medical expense that might be covered by a reimbursement if the amount of the reimbursement cannot be verified.

Treat subsequently provided verification from an eligible FAP group as a change. A supplement for lost benefits is issued **only** if the expense could **not** be verified within 30 days of the application and the local office was at fault.

SHELTER EXPENSES

Allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. Do **not** prorate the shelter expense even if the expense is shared. Shelter expenses are allowed when billed. The expenses do **not** have to be paid to be allowed.

Late fees and/or penalties incurred for shelter expenses are **not** an allowable expense.

Note: When a shelter expense is paid in advance, continue to allow the ongoing monthly shelter expense. **Example:** A client's monthly shelter expense is [REDACTED]. They pay [REDACTED] to the landlord to cover the months of April-June. Continue to allow the monthly shelter obligation of [REDACTED] in the FAP budgets for April-June.

Housing Expenses

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group.

The expense must be a continuing one. Payments that exceed the normal monthly obligation are **not** deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, **and** it has **not** been allowed in a previous FAP budget. Additional expenses for optional charges, such as carports, pets, etc. are **not** allowed.

Note: Some finance companies or banks may combine billings for allowable shelter expenses with other loans. Be careful to only allow the portion that is an allowable shelter expense. Home equity loans are allowable, see Determining the Monthly Amount, Home Equity Loan Expense in this item.

Temporary Housing

If FIP or SDA shelter vendor payments are made on behalf of a FAP group residing in **temporary housing** per BEM 500, Government Aid section, subtract the vendor payment from the total shelter amount to determine the allowable shelter expense.

Rental Income Situations

Do **not** deduct the cost of doing business from the shelter expense of a FAP group with rental income.

Property Taxes, Assessments and Insurance

Property taxes, state and local assessments and insurance on the structure are allowable expenses. Do **not** allow insurance costs for the contents of the structure, for example, furniture, clothing and personal belongings.

Deduct the entire insurance charge for structure and contents when the amount for the structure cannot be determined separately.

Renter's insurance is **not** allowed.

Home Repair Expenses

Allow charges for repair of a home which was substantially damaged or destroyed due to a natural disaster such as fire or flood.

Note: Do **not** allow any portion of an expense that has been or will be reimbursed by any source.

Verification

Verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified.

Verify the expense **and** the amount for housing expenses, property taxes, assessments, insurance and home repairs.

Verification Sources

Acceptable verification sources include, but are **not** limited to:

- Mortgage, rental or condo maintenance fees contracts or a statement from the landlord, bank or mortgage company.
- Copy of tax, insurance, assessment bills or a collateral contact with the appropriate government or insurance office.
- Cancelled checks, receipts or money order copies, if current. The receipt must contain minimum information to identify the expense, the amount of the expense, the expense address if verifying shelter, the provider of the service and the name of the person paying the expense.
- DHS-3688, Shelter Verification form. A copy of this form will be sent to the FAP group and a task and reminder sent to the specialist when a change of address is done in Bridges. The due date will be on the form. The specialist must monitor for return of the form and take appropriate action if it is or is **not** returned.
- Current lease.

Nothing in Department policy allows for this expense in a Food Assistance Program (FAP) financial eligibility budget.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly determined the amount of Claimant's Food Assistance Program (FAP) benefits.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHeld.

_____/s/_____
Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/21/2010

Date Mailed: 10/21/2010

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.

[REDACTED]

cc:

[REDACTED]