

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.: 2011-10958
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 20, 2011
Monroe 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 January 20, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly determined Claimant's Food Assistance Program (FAP) benefit as \$256 effective 12/2010.

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 benefit recipient.
2. Claimant received gross biweekly unemployment compensation (UC) of \$774/two weeks; \$50/two weeks of Claimant's UC income is from the American Recovery and Reinvestment Act.
3. Claimant also receives \$216/month in child support.
4. DHS calculated Claimant's 12/2010 FAP benefits based on a countable income of \$1782.
5. DHS gave Claimant a \$588/month standard credit for her utilities though Claimant states she pays more for her utilities.

6. DHS calculated Claimant's 12/2010 FAP benefits based on a previously reported \$258/month Child Development and Care (CDC) expense.
7. Claimant never reported or verified a higher CDC expense to DHS.
8. On an unspecified date, DHS determined that Claimant was entitled to \$256/month in FAP benefits based on a \$1782/month income, \$588 utility credit and a \$258/month CDC expense.
9. On 12/13/10, Claimant requested a hearing disputing her 12/2010 FAP benefit calculation, specifically disputing the DHS calculations concerning Claimant's income, utilities and CDC expenses.

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 Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations 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).

In the present case, Claimant disputed the figures used by DHS to determine her eligibility for FAP benefits effective 12/2010. Claimant objected to three different considerations in the calculation; the first was how DHS calculated Claimant's income.

It was not disputed that Claimant received \$774/two weeks in gross UC income. 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 \$724/two weeks.

Claimant indicated that her biweekly income should have been doubled to calculate her monthly UC income. DHS is to convert 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 average biweekly income (\$724) by 2.15 results in a monthly countable income amount of \$1556. Claimant's undisputed child support income was \$226/month. Adding the child support to the UC income results in a total countable income of \$1782, the same as calculated by DHS. It is found that DHS properly budgeted Claimant's income in determining Claimant's 12/2010 FAP benefits.

Claimant also contended that she spends more than \$588/month on utilities. What Claimant actually spends on utilities is irrelevant to the FAP benefit calculation. DHS gives a flat utility standard to all clients. BPB 2010-008. The utility standard of \$588 (see RFT 255) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$588 amount. It is found that DHS properly gave Claimant a \$588 credit for utilities in determining Claimant's 12/2010 FAP benefit eligibility.

Lastly, Claimant contended that she spends \$380/month on CDC expenses and that DHS only gave her credit for a \$258/month expense. Claimant previously reported and verified the \$258/month CDC expense. Claimant specifically contended that in 9/2010 she faxed DHS a document which listed the hourly prices of her CDC provider. Claimant conceded that the document did not specifically verify a \$380/month CDC expense. The faxing of a CDC provider's general prices to DHS is neither a reporting nor a verification of CDC expenses. Claimant's expectation that DHS should have known that this document was intended to be a notice of a CDC expense change was unreasonable. It was equally unreasonable that Claimant would have expected DHS to calculate Claimant's monthly CDC expenses based solely on her CDC provider's prices. It is found that Claimant did not report or verify an increase in CDC expenses to DHS to justify a higher expense credit than what DHS issued to Claimant. Claimant may report a higher CDC expense to DHS for consideration in future FAP benefit months.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly calculated Claimant's employment income, CDC expenses and utilities in determining Claimant's 12/2010 FAP benefit eligibility. The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 1/25/2011

Date Mailed: 1/25/2011

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

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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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