

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.: 2011-10979
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 18, 2011
Macomb County DHS (20)

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 18, 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) benefits as \$112/month.

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 was part of a FAP benefit group size of five persons.
3. Claimant's spouse received \$2548/month in employment income.
4. Claimant received \$134.93/month in employment income.
5. Claimant received \$679/month in unemployment compensation (UC) income.
6. Claimant verified a first mortgage obligation of \$822.91/month.
7. Claimant did not verify a second mortgage obligation of \$130/month.

8. After including property taxes and property insurance, Claimant verified a total housing expense of \$1112.47/month.
9. On 11/19/10, DHS determined that Claimant is entitled to \$112/month in FAP benefits.
10. Claimant requested a hearing on 11/1/10 disputing her FAP benefit issuance.

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). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

Claimant testified that she requested a hearing disputing her 12/2010 FAP benefit issuance. Claimant did not mention a dispute concerning her 11/2010 FAP benefit issuance. Claimant probably originally disputed her 11/2010, not her 12/2010 FAP benefit issuance. Claimant's hearing request was submitted to DHS on 11/1/2010. DHS did not determine Claimant's 12/2010 FAP benefit issuance until 11/19/10. Claimant could not have requested a hearing disputing a determination which had not taken place. Had the issue been discovered during the administrative hearing, the undersigned would have rejected an analysis of Claimant's 12/2010 FAP benefit issuance. As the presented evidence concerned only Claimant's 12/2010 FAP benefit issuance, the undersigned is inclined to consider the correctness of Claimant's 12/2010 FAP benefits. BEM 556 outlines the proper procedures for calculating FAP benefits.

Claimant confirmed that the employment income amounts used by DHS reflected her and her spouse's employment income. Thus, it is established that DHS properly budgeted Claimant's employment income (\$134.93) and Claimant's spouse's employment income.

Claimant disputed the DHS calculation of her UC income. DHS established that Claimant received the following biweekly UC gross payments on the following dates: \$374 on 10/25/10, \$366 on 11/8/10 and \$389 on 11/22/10; Claimant did not dispute the issuance amounts. In calculating FAP benefits, DHS projects a client's employment income by using the last 30 days of payments if it appears to accurately reflect what is

expected to be received in the benefit month. BEM 505 at 4. As the DHS action reducing Claimant's FAP benefits occurred on 11/19/10, DHS would have properly used Claimant's UC pay dates from 10/25/10 and 11/8/10 to prospect Claimant's income.

DHS is to count the gross amount of UC in calculating FAP benefits. BEM 503 at 24. 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 \$324 on 10/25/10 and \$316 on 11/8/10.

DHS converts biweekly non-child support income into a 30 day period by multiplying the average income by 2.15. BEM 505 at 6. Multiplying Claimant's countable average biweekly income (\$320) by 2.15 results in a monthly countable income amount of \$688. As DHS calculated Claimant's UC income as \$679, a more favorable UC income for Claimant, the undersigned is inclined to accept the DHS amount as accurate.

DHS gives a 20% credit for reported employment income. Thus, Claimant's and her spouse's employment income should each be multiplied by .8 to determine a net earned income amount. Multiplying Claimant's earned income (\$134.93) by .8 results in a net income of \$107 (dropping cents). Multiplying Claimant's spouse's earned income (\$2548) by .8 results in a net income of \$2038 (dropping cents).

The individual employment and unearned income is then added to determine the group's total income. Adding Claimant's countable employment income (\$107) with her spouse's countable employment income (\$2038) to Claimant's countable UC income (\$679) results in a total income of \$2824.

Claimant's five-person FAP benefit group receives a standard deduction of \$178. RFT 255. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$2646, the same amount as calculated by DHS.

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 and excess shelter (housing and utilities) up to a capped amount and court ordered child support and arrearages paid to non-household members. Claimant's only relevant expenses involve her shelter.

Claimant indicated that she has a first mortgage of \$822.91/month, a second mortgage of \$130/month and separate shelter expenses of \$714/year in property insurance and approximately \$3100/year in property taxes. Claimant's testimony would result in a housing expense of \$1270/month (dropping cents).

To calculate Claimant's 12/2010 FAP benefits, DHS budgeted \$1112.47 in shelter expenses. DHS indicated that Claimant did not provide verification of her second mortgage. Shelter expenses must be verified. BEM 554 at 11.

The undersigned is inclined to accept the DHS shelter amount as the proper amount of Claimant's housing obligation. DHS credibly testified that there was no verification of a second mortgage within the case file. Without verification of the amount, DHS would have no reason to budget the second mortgage Shelter expenses must be verified. BEM 554 at 11. Claimant also did not have a precise amount for her property tax obligation which would account for a slight variance from the amount calculated by DHS.

Claimant was issued the maximum utility credit allowed by DHS policy, \$588. RFT 255. This amount encompasses all of Claimant's utilities. The housing expenses (\$1112.47) are added to the utility expense (\$588) to calculate Claimant's total monthly shelter obligation of \$1700 (dropping cents).

Clients only receive a credit in the FAP budget for what DHS calls an excess shelter expense. Claimant's excess shelter cost is the difference between the shelter costs (\$1700) and half of Claimant's adjusted gross income. The excess shelter amount is found to be \$377.

Claimant's net income is determined by taking the adjusted gross income (\$2646) and subtracting the excess shelter expense (\$377). Claimant's net income is found to be \$2269. Based on a FAP group of five persons with a net income of \$2269, Claimant's FAP benefit amount is calculated to be \$112, the same amount calculated by DHS. RFT 260 at 10. It is found that DHS properly calculated Claimant's FAP benefits for the 12/2010.

As discussed during the hearing, Claimant may submit a verification of her second mortgage to DHS. Once DHS receives and budgets the second mortgage amount, Claimant's FAP benefits may be increased in future months.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FAP benefits. The actions taken by DHS are AFFIRMED.

Christian Gardocki

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

201110979/CG

Date Signed: 1/24/2011

Date Mailed: 1/24/2011

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 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.

CG/jlg

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