

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.: 2011-11280
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 19, 2010
Wayne County DHS (15)

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 19, 2010. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. 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 issuance 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 is part of a FAP benefit group which includes three persons.
3. Claimant received \$1542/month in gross employment income.
4. Claimant's spouse received \$943/month in Retirement, Survivors, Disability Insurance (RSDI) income.
5. Claimant is responsible for an \$850/month housing obligation.
6. On an unspecified date, DHS redetermined Claimant's FAP benefit issuance effective 12/2010 as \$41/month.

7. On 12/17/10, Claimant requested a hearing disputing the \$41/month FAP benefit issuance; Claimant contended she was entitled to a higher benefit amount.

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's primary argument was that she failed to understand how her FAP benefits could be reduced from \$350 in 11/2010 to \$41/month effective 12/2010. Though determining the correctness of Claimant's 12/2010 FAP benefit issuance does not require an explanation concerning why Claimant received more FAP benefits the prior month, it would make sense that Claimant would be doubtful of a drastically reduced benefit amount if her circumstances did not change. DHS explained that they mistakenly failed to budget Claimant's spouse's RSDI income prior to 12/2010 even though Claimant had reported the income. When an over-issuance of benefits is discovered, DHS must take immediate action to correct the error. BAM 700 at 7. Thus, DHS had the right to correct the error. It still must be determined whether DHS properly calculated Claimant's FAP benefit issuance. BEM 556 outlines the proper procedures for calculating FAP benefits.

It was not disputed that Claimant's spouse received \$943/month in RSDI income. Claimant also agreed that DHS properly calculated her gross employment income as \$1542/month. In calculating FAP benefits, DHS is to count the gross employment income amount. BEM 501 at 5.

DHS gives a 20% credit for reported employment income. Multiplying Claimant's gross employment income (\$1542) by 80% results in a total countable employment income of \$1233 (dropping cents).

Claimant's countable employment income (\$1233) is added to her spouse's RSDI (\$943) to determine the FAP group's total countable income. That amount is found to be \$2176.

Claimant's three-person FAP benefit group receives a standard deduction of \$141. RFT 255. The standard deduction is a deduction that varies based on the group size which

DHS issues to all FAP benefit groups. 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 \$2035.

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 shelter.

It was not disputed that Claimant is responsible for an \$850/month rental obligation. 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. The total shelter obligation is calculated by adding Claimant's housing expenses (\$850) to the utility expenses (\$588); this amount is found to be \$1438.

DHS only credits FAP benefit groups with what DHS calls an "excess shelter" expense. This expense is calculated by taking Claimant's total shelter expenses (\$1438) and subtracting half of Claimant's adjusted gross income. Claimant's excess shelter amount is found to be \$421 (rounding up).

Claimant's net income is determined by taking Claimant's adjusted gross income (\$2035) and subtracting the excess shelter expense (\$421). Claimant's net income is found to be \$1614. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on a FAP group of three persons and a net income of \$1614, Claimant's FAP benefit amount is found to be \$41, the same amount calculated by DHS. It is found that DHS properly calculated Claimant's FAP benefits for the benefit month of 12/2010.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined that Claimant was eligible for \$41/month in FAP benefits effective 12/2010. 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

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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 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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