

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.: 2011-11585
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: January 24, 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 24, 2011. [REDACTED], Claimant's spouse, appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly denied Claimant's Food Assistance Program (FAP) benefits due to excess 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 benefit recipient.
2. Claimant was part of a FAP benefit group of five persons.
3. No members of Claimant's FAP benefits group were over 60 years of age, disabled or a disabled veteran.
4. Claimant's FAP benefits were subject to redetermination by 12/31/10.
5. Claimant received the following gross biweekly employment income: \$1269.94 received on 9/10/10 and \$1712 received on 9/24/10.
6. Claimant's 9/24/10 pay was not representative of Claimant's typical employment income and should have been disregarded by DHS.

7. Claimant's spouse received \$294/two weeks in gross unemployment compensation (UC) benefits.
8. Claimant is responsible for an \$850/month rental obligation.
9. On 11/19/10, DHS mailed a Notice of Case Action stating that effective 1/2011; Claimant was no longer eligible for FAP benefits due to excess income.
10. On 11/29/10, Claimant requested a hearing disputing the termination of 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 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 income amounts relied on by DHS to determine Claimant's FAP benefit eligibility effective 1/2011. Claimant also disputed the termination of FAP benefits. BEM 556 outlines the proper procedures for calculating FAP benefits.

The first step in the process is to calculate the FAP benefit group's gross monthly income so a gross income test can be performed. The gross income test is only applicable for groups without a senior, disabled or disabled veteran (SDV) member. BEM 556 at 3. Claimant's FAP benefits group is not an SDV group; thus, the gross income test must be performed.

If the group's monthly gross income exceeds the monthly gross income limits then the group is automatically denied FAP eligibility. BEM 556 at 3. The gross income test only considers gross income; thus, child support payments, rent, mortgage, utilities and other expenses are not a factor in the gross income test outcome.

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. BEM

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505 at 4. DHS is to discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. *Id.*

It was not disputed that Claimant received gross employment earnings of \$1269.94 on 9/10/10 and \$1712 on 9/24/10. DHS factored both of Claimant's 9/2010 checks in prospecting Claimant's income. Claimant contended that the 9/24/10 check included unrepresentative bonuses and overtime and should have been disregarded.

For purposes of this decision, the undersigned will adopt Claimant's contention that the 9/24/10 pay stub should have been disregarded. The undersigned adopts Claimant's argument solely to determine if disregarding the pay would have made any difference in Claimant's eligibility for FAP benefits.

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 gross average employment income (\$1210.94 after disregarding the 9/24/10 pay) by 2.15 results in a monthly countable income amount of \$2603 (dropping cents).

It was not disputed that Claimant's spouse received \$294/two weeks in UC income. Multiplying the gross UC income (\$294) by 2.15 results in a monthly countable income amount of \$632 (dropping cents).

Adding Claimant's gross employment income (\$2603) to Claimant's spouse's gross UC income (\$632) results in a total FAP benefit group gross income of \$3235. The gross income limit for a group of five persons is \$2794. RFT 250 at 1. The FAP benefit group's gross income exceeded the gross income limits which properly resulted in denial of FAP benefits based on income-eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FAP benefits effective 1/2011. The actions taken by DHS are AFFIRMED.



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

Date Signed: 1/31/2011

Date Mailed: 1/31/2011

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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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