

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2011-11767
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: February 14, 2011
Oakland County DHS (02)

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 February 14, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly calculated Claimant's Food Assistance Program (FAP) benefits for 12/2010.

FINDINGS OF FACT

The Administrative Law Judge, based on 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 group size of five persons.
3. Claimant received \$688/month in Supplemental Security Income (SSI) for one of her children.
4. Claimant received \$590/two weeks in unemployment compensation (UC) (see Exhibit 4); \$50/two weeks of which was from the American Recovery and Reinvestment Act.
5. Claimant is responsible for a \$715/month rental obligation.

6. On 11/29/10, DHS mailed Claimant a Notice of Case Action (Exhibit 5) informing Claimant that she was eligible for \$441 in FAP benefits effective 12/2010.

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).

Claimant indicated that she disputed the DHS determined 12/2010 FAP benefit issuance. BEM 556 outlines the proper procedures for calculating FAP benefits.

In 11/2010, Claimant received \$590/two weeks in UC income; \$50/two weeks of Claimant's UC came from the American Recovery and Reinvestment Act. Claimant stated that she primarily requested a hearing because her UC benefits were nearing an end and that she did not think that they would continue. Claimant also indicated that though her UC benefits continued, she only received \$540/two weeks once her extension was approved. Thus, according to Claimant, DHS over-budgeted her UC income.

Claimant's argument fails for two reasons. First, Claimant never reported a change in UC income to DHS. DHS may not consider a change in income if Claimant hadn't reported it. Secondly, Claimant had a reduction in income, but no reduction in countable income. Claimant's reduction in income was solely from the stoppage of the \$50/two weeks in ARRA income which DHS did not budget in the first place. It is found that DHS properly budgeted Claimant's UC income as \$540/two weeks.

DHS is to count the gross amount of UC in calculating FAP benefits. BEM 503 at 24. DHS converts 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 biweekly income by 2.15 results in a monthly countable income amount of \$1161.

It was not disputed that Claimant's child received \$674/month in federal SSI and \$14/month (averaged) in State of Michigan SSI. DHS is to budget the gross amount of federal and state SSI benefits. BEM 503 at 23.

Claimant's total income is calculated by adding all sources of income. Adding Claimant's UC income (\$1161) to the SSI (\$688) results in a total income of \$1849. DHS actually determined that Claimant's total unearned income was \$1828 (see Exhibit 1). As the DHS figure is more favorable to Claimant, the undersigned will accept the DHS amount as accurate.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 at 1. For groups without a senior (over 60 years old), 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. For groups containing SDV members, DHS also considers the medical expenses for the SDV group member(s) and the full excess shelter expense. Claimant's FAP benefit group is an SDV group by virtue of a disabled child as a group member.

Verified child support, day care and medical expenses are subtracted from Claimant's monthly countable income to determine Claimant's adjusted gross income. Claimant did not claim these expenses.

Claimant's five-person FAP benefit group received a standard deduction of \$178. RFT 255. The standard deduction is given to all FAP benefit groups though the amount varies based on the benefit group size. 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 \$1650.

It was not disputed that Claimant is responsible for a \$715/month shelter 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 to the utility credit (\$588); this amount is found to be \$1303.

DHS only credits FAP benefit groups with what DHS calls an "excess shelter" expense. This expense is calculated by taking Claimant's total shelter obligation and subtracting half of Claimant's adjusted gross income. Claimant's excess shelter amount is found to be \$478.

Claimant's net income is determined by taking Claimant's adjusted gross income (\$1650) and subtracting the allowable excess shelter expense (\$478). Claimant's net income is found to be \$1172. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's FAP benefit amount is found to be \$441, 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 redetermined Claimant's FAP benefits effective 12/2010 as \$441/month. The actions taken by DHS are AFFIRMED.

Christian Gardocki

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

Date Signed: 2/17/2011

Date Mailed: 2/17/2011

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 of the rehearing decision.

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