

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.: 2011-13855
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: February 7, 2011
Oakland County DHS (04)

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 7, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly calculated Claimant's eligibility for Food Assistance Program (FAP) benefits effective 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. In 11/2010, Claimant received \$125/month in FAP benefits.
3. Claimant's FAP benefits were scheduled to end 11/30/10 subject to completion of a Semi-Annual Contact Report redetermination.
4. Claimant timely submitted all needed documents for her FAP benefits to continue including check stubs from 10/22/10, 10/29/10, 11/5/10 and 11/12/10 (see Exhibit 1).
5. DHS did not timely process Claimant's documents for Claimant to receive uninterrupted FAP benefits.

6. On 12/7/10, DHS processed Claimant's benefit redetermination and calculated that Claimant was eligible for \$30/month in FAP benefits.
7. The DHS redetermination was based on Claimant's employment income from 11/5/10, 11/12/10, 11/19/10 and 11/26/10.
8. On 12/14/10, Claimant requested a hearing disputing the amount of her 12/2010 FAP benefits and contended that DHS should have relied on her employment income from 10/22/10-11/12/10 rather than her employment income from 11/5/10-11/26/10.

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 testified that she requested a hearing disputing her 12/2010 FAP benefit issuance amount. Claimant specifically objected to the DHS method used to calculate Claimant's employment income. The undersigned will consider both of Claimant's contentions. BEM 556 outlines the proper procedures for calculating FAP benefits.

For non-child support income, DHS is to use past income to prospect income for the future unless changes are expected. BEM 505 at 4. The 30-day period used can begin up to 30 days before the interview date or the date the information was requested. *Id.* For FAP only, when processing a Semi-Annual Contact Report (DHS-1046), the 30-day period can begin up to 30 days before the day the DHS-1046 is received by the client or the date a budget is completed. *Id.*

Claimant credibly testified that she timely submitted a Semi-Annual Contact Report (DHS-1046). Claimant submitted 30 days of income verification along with her DHS-1046. The precise date of Claimant's submission is not known but it is believed to have been submitted in mid 11/2010. It was not disputed that DHS did not timely process Claimant's FAP benefit redetermination causing a slight delay in the issuance of Claimant's FAP benefits. DHS should have processed Claimant's FAP benefits prior to 11/30/2010 but did not do so until 12/7/10.

Claimant contended the DHS tardiness adversely impacted her FAP benefits. The appropriate remedy for a DHS failure to timely process benefits is to order DHS to

process the benefits. In the present case, the DHS tardiness was slight and Claimant's benefits have been processed. Claimant is not entitled to any additional remedies. Though it must be determined whether DHS acted properly in processing Claimant's benefits.

Claimant contended that when DHS processed Claimant's FAP benefits, DHS was required to budget Claimant's employment income from the 30 day period from the date of her DHS-1046 submission. DHS instead used the 30 day period from the date that the FAP budget is completed. Though DHS could have chosen to use the 30 day period from the date that DHS received Claimant's DHS-1046, DHS had discretion to instead use the 30 day period from the date that the FAP budget is completed. It is found that DHS properly budgeted Claimant's income from the 30 day period from the date that Claimant's FAP budget was completed.

Claimant did not dispute any other calculations in her FAP budget. As a courtesy to Claimant, the undersigned will examine the entire 12/2010 FAP benefit issuance.

It was not disputed that Claimant received the following weekly amounts in gross employment income: \$128.54 on 11/5/10, \$123.22 on 11/12/10, \$178.89 on 11/19/10 and \$254.13 on 11/26/10 (see Exhibit 1). In calculating FAP benefits, DHS is to count the gross employment income amount. BEM 501 at 5.

Weekly income must be converted to a monthly standard by multiplying the average income by 4.3. BEM 505 at 6. Multiplying the average employment check by 4.3 results in a monthly employment gross income of \$736 (dropping cents), the same as calculated by DHS.

DHS only counts 80% of a FAP member's monthly gross employment income in determining FAP benefits. 80% of Claimant's employment income is \$588 (dropping cents).

It was also not disputed that Claimant received \$268/two weeks in gross UC income. 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 average income by 2.15. BEM 505 at 6. Multiplying Claimant's biweekly UC income by 2.15 results in a monthly countable income amount of \$576 (dropping cents), the same amount as calculated by DHS.

Claimant's monthly UC income (\$576) income is added to her countable employment income (\$588) to determine the FAP group's total countable income. That amount is found to be \$1164.

Claimant's one-person FAP benefit group receives a standard deduction of \$141. 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 \$1023.

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. For groups containing SDV members, DHS also considers the medical expenses for the SDV group members and does not cap the excess shelter expense.

It was not disputed that Claimant is responsible for an \$573/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 (\$573) to the utility expenses (\$588); this amount is found to be \$1161.

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 \$650 (rounding up). As stated above, groups without an SDV member have the excess shelter amount capped; Claimant's FAP benefit group is such a group. Claimant's excess shelter amount is capped at \$458. RFT 255 at 1.

Claimant's net income is determined by taking Claimant's adjusted gross income (\$1023) and subtracting the excess shelter expense (\$458). Claimant's net income is found to be \$565. 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 \$30, 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 calculated Claimant's FAP benefits effective 12/2010. The actions taken by DHS are AFFIRMED.

Christian Gardocki

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

Date Signed: 2/9/2011

Date Mailed: 2/9/2011

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.

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