

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.: 2011-13861
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: February 9, 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 9, 2011. [REDACTED] appeared on behalf of Claimant as an authorized hearing representative (AHR). On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly determined 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. Claimant received \$200 in FAP benefits for 11/2010.
3. Claimant is over 60 years of age and part of a FAP benefit group of one.
4. Claimant received \$724/two weeks in gross unemployment compensation (UC) income (see Exhibit 1).
5. Claimant is responsible for a \$750/month shelter obligation.
6. Prior to Claimant's hearing request, Claimant did not report any medical expenses to DHS.

7. On 12/8/10, DHS mailed a Notice of Case Action (Exhibit 3) and determined that Claimant was eligible for \$16/month in FAP benefits (see Exhibit 2) effective 12/2010.
8. On 12/27/10, Claimant requested a hearing disputing the determination of FAP benefits for 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 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 DHS reduced Claimant's FAP benefits from \$200 in 11/2010 to \$16 in 12/2010 without any changes in Claimant's circumstances. 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 circumstances did not change. DHS explained that Claimant's UC income was under-budgeted prior to 12/2010. 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 for 12/2010. BEM 556 outlines the proper procedures for calculating FAP benefits.

It was not disputed that Claimant received biweekly UC benefits of \$724/2 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 \$1556.

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 members and

does not cap the excess shelter expense. It was not disputed that Claimant was a senior by virtue of being 60 years of age or older.

Claimant's AHR testified that a medical bill was submitted to DHS in 1/2011 and that the medical bill should be considered in Claimant's FAP benefit issuance. Though DHS may be obligated to budget the medical expense in future FAP benefit months, there is no basis for the undersigned to consider the expense in reviewing Claimant's 12/2010 FAP benefit issuance. Claimant's hearing request was submitted on 12/27/10 and the medical expense had not yet been submitted to DHS. Claimant may not raise an issue at hearing that was not in dispute at the time of Claimant's hearing request.

Non-shelter expenses (e.g.- child support, medical and child care expenses) are deducted from Claimant's countable income. Claimant had no countable non-shelter expenses.

Claimant's one-person FAP benefit group received 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 \$1415.

It was not disputed that Claimant is responsible for a \$750/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 (\$750) to the utility credit (\$588); this amount is found to be \$1338.

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 \$631 (rounding up).

Claimant's net income is determined by taking Claimant's adjusted gross income (\$1415) and subtracting the excess shelter expense (\$631). Claimant's net income is found to be \$784. 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 \$16, 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: 2/10/2011

Date Mailed: 2/10/2011

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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