

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

IN THE MATTER OF:



Reg. No.: 2011-14032
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: February 9, 2011
DHS County: Wayne (82-55)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on February 9, 2011. Claimant appeared and testified. [REDACTED], and [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly reduced the amount of Claimant's Food Assistance Program (FAP) benefits for the month of January 2011?

FINDINGS OF FACT

The Administrative Law Judge, based on competent, material, and substantial evidence in the record and on the entire record as a whole, finds as fact:

1. In 2010, Claimant received Social Security disability (RSDI) income of \$1,273.50 per month.
2. In 2010, DHS determined that Claimant was eligible for FAP benefits for a family group of two people.
3. DHS failed to include Claimant's RSDI income in the calculation of FAP benefits and paid her the maximum allowable amount of \$367 per month.
4. On December 27, 2010, DHS conducted a Redetermination process to update its information about Claimant's income and expenses.

5. As a result of the Redetermination, DHS discovered the RSDI income, recalculated Claimant's FAP benefits including the RSDI, and determined she should receive only \$90 per month.
6. On January 1, 2011, DHS paid \$90 FAP benefits to Claimant.
7. On January 5, 2011, Claimant filed a Request for Hearing with DHS.

CONCLUSIONS OF LAW

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by federal regulations in Title 7 of the Code of Federal Regulations. DHS administers the FAP program pursuant to MCL 400.10, *et seq.*, and Michigan Administrative Code Rules (MACR) 400.3001-400.3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The administrative manuals are the policies and procedures DHS officially created for its own use. While the manuals are not laws created by the U.S. Congress or the Michigan State Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policies are, I will examine whether they were in fact followed in this case.

In this case, DHS refers to BEM Item 503, "Income, Unearned," as the legal basis for its action. I reviewed BEM 503 in preparing my decision. BEM 503 is thirty-three pages long and lists fifty-one types of unearned income. RSDI is included in this list. I find and determine, therefore, that BEM 503 requires that RSDI benefits be counted as income for purposes of calculating FAP benefits. BEM 503, p. 20 of 33.

FAP benefits in this case, accordingly, must be based on Claimant's income of \$1,273.50. I find and determine that in this case, the Department discovered an error in its calculations when it conducted the routine Redetermination updating process. I find and determine that the error was the omission of Claimant's income and the resulting award of maximum FAP benefits to her. I find and determine that DHS acted correctly when it discovered its error by making a reduction in Claimant's FAP benefits for January 2011.

At the hearing, I reviewed in detail DHS' reduction calculations, which were based on Claimant's RSDI income. I find that the correction is an accurate one, and I find and determine that DHS made the correction in accordance with its policies and procedures.

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Based on all of the above findings of fact and conclusions of law, I decide and determine that in this case, DHS acted correctly and its action is AFFIRMED. DHS need take no further action in this matter.

DECISION AND ORDER

Based on the findings of fact and conclusions of law above, I find and determine that DHS is AFFIRMED. IT IS ORDERED that DHS need take no further action in this matter.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 10, 2011

Date Mailed: February 14, 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.

JL/pf

cc:

