

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.: 2011-1433  
Issue No.: 3014/3015/6019  
Case No.: [REDACTED]  
Hearing Date: January 13, 2011  
Macomb County DHS (36)

**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 13, 2011. The claimant appeared and testified; [REDACTED] appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Manager, and [REDACTED], Specialist, appeared and testified.

**ISSUES**

1. Whether DHS properly terminated the Food Assistance Program (FAP) benefits of Claimant's daughter because of Claimant's FAP benefit application requesting FAP for all members on her daughter's case.
2. Whether DHS properly denied FAP benefits for Claimant based on excess income.
3. Whether DHS properly denied Child Development and Care (CDC) benefits for Claimant based on 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's daughter, [REDACTED], was an ongoing FAP benefit recipient.
2. Claimant, Claimant's daughter ([REDACTED]) and Claimant's two grandchildren (biological children of [REDACTED]) bought and prepared food in the same household.

3. Claimant had guardianship of her grandchildren though the children's biological mother lived within the same household since 5/2006.
4. On 7/15/10, Claimant applied for FAP and CDC benefits for the household which included herself, her daughter and her two grandchildren.
5. Claimant had a gross employment income of \$6,000/month.
6. ██████ received \$979/month in Retirement, Survivors Disability Insurance (RSDI).
7. Claimant's two grandchildren each received \$245/month in RSDI.
8. Claimant was responsible for a \$2757/month mortgage payment.
9. Claimant was responsible for CDC payments of \$200/week.
10. On an unspecified date, DHS terminated Dawn's FAP benefits effective 8/2010 based on the group members no longer being eligible for their own FAP benefits case.
11. On an unspecified date, DHS denied Claimant's application for FAP benefits due to the group exceeding the income limits for FAP benefits.
12. On an unspecified date, DHS denied Claimant's application for CDC benefits due to the group exceeding the income limits for CDC benefits.
13. On 9/23/10, ██████ requested a hearing disputing the termination of FAP benefits and Medical Assistance (MA) benefits; Dawn now states that she is only disputing the termination of FAP benefits.
14. On 9/23/10, Claimant requested a hearing disputing the denial of CDC benefits and an issue concerning MA benefits; Claimant now states there is no dispute concerning MA 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).

The present case involves DHS actions taken to two separate cases. The issues would have been more appropriately split into separate hearings. As this was not done, the undersigned will address the actions taken by DHS concerning both cases within this administrative decision.

**██████████ - FAP**

The first DHS action was a termination of FAP benefits to a case in which Claimant's daughter, ██████████ was the grantee. This case originally involved a FAP benefit group size of three persons, ██████████ and her two biological children. DHS reevaluated the case after ██████████ mother; ██████████ ██████████ (Claimant) applied for FAP benefits for herself, ██████████ and ██████████ children.

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. BEM 212 at 1. DHS must first determine if the group members must be included in the group. *Id.* If they are not mandatory group members, then DHS determines if they purchase and prepare food together or separately. *Id.* In general, persons who live together and purchase and prepare food together are members of the FAP group. *Id.* at 5.

The child is always in the FAP group of the primary caretaker. *Id.* at 3. If the child's parent(s) is living in the home, he/she must be included in the FAP group. *Id.*

It was not disputed that Claimant bought and prepared food with each of the other household members. This is one reason that all four household members would be included within the same FAP benefit group. Further, Claimant had guardianship over ██████████ children, though ██████████ continued to reside in Claimant's household. As stated above, Claimant as primary caretaker would be in the same FAP benefit group as their caretaker and ██████████ would also be included as a mandatory FAP benefit group member as the children's biological mother.

After receiving Claimant's application for FAP benefits, DHS terminated ██████████ FAP benefits and separately evaluated Claimant's FAP benefit application. DHS could have alternatively denied Claimant's application and simply added Claimant as a group member to ██████████ existing FAP benefits case. Either method would have been appropriate. The undersigned finds no fault with DHS for terminating ██████████ FAP benefits based on the newly reported information that Claimant had guardianship over her grandchildren. It is found that DHS properly terminated ██████████ FAP benefits as

Claimant established that she was the appropriate primary caretaker for the FAP benefit group. Though [REDACTED] FAP benefits were properly terminated, it still must be determined whether Claimant was entitled to FAP benefits based on a program group which would have included Claimant, [REDACTED] and [REDACTED] children.

**[REDACTED] - FAP**

Claimant's hearing request indicated a dispute with MA and CDC programs; FAP benefits were not indicated as a program within dispute. Normally, the undersigned would not be inclined to address an issue not listed on a request for hearing. As the present case involved multiple actions taken to multiple cases, the undersigned is inclined to give Claimant the benefit of the doubt and to allow Claimant to proceed with her dispute involving the denial of FAP benefits.

Claimant contended that because she was a guardian to her grandchildren, her income should not be considered in determining FAP benefits for her grandchildren. Claimant's argument is without merit. DHS regulations may disregard a guardian's income when determining benefits for some programs (e.g. Family Independence Program), however, no such policy applies to FAP benefits. Note that Claimant's eligibility for FIP benefits was not an issue in the present hearing. It is found that DHS properly considered Claimant's income in determining Claimant's FAP benefit eligibility. Now it must be determined whether Claimant is eligible for FAP benefits after her income is considered. BEM 556 outlines the proper procedures for calculating FAP benefits.

Claimant testified concerning the following income: \$6,000/month in gross employment income for herself, \$245/month in RSDI for each of her grandchildren and \$979/month in RSDI for [REDACTED]. In calculating FAP benefits, DHS is to count the gross employment income amount. BEM 501 at 5. For all programs, the gross amount of RSDI is countable income. BEM 503 at 20.

DHS gives a 20% credit for reported employment income. Multiplying Claimant's gross employment income (\$6,000) by 80% results in a total countable employment income of \$4800.

The benefit group's total countable income is calculated by adding Claimant's countable income (\$4800), Claimant's grandchildren's RSDI (\$245x2) and Claimant's daughter's RSDI (\$979). The total countable group income is found to be \$6269.

Claimant's four-person FAP benefit group receives a standard deduction of \$152. RFT 255. The standard deduction is given to all FAP benefit groups; the amount of the deduction varies and is based on the 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 \$6117.

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. DHS also considers the medical expenses for group members that are S/D/V.

Claimant testified that she paid \$200/week in CDC expenses. Weekly expenses are multiplied by 4.3 to convert them to a monthly amount. BEM 554 at 3. Claimant's CDC expenses are found to be \$860/month.

Claimant testified that she was responsible for a \$2747/month mortgage. 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 (\$2747) to the utility expenses (\$588); this amount is found to be \$3335.

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 (\$2747) and subtracting half of Claimant's adjusted gross income minus CDC expenses. Claimant's excess shelter amount is found to be \$697 (rounding up).

Claimant's net income is determined by taking Claimant's adjusted gross income (\$6117) and subtracting the excess shelter expense (\$697) and Claimant's CDC expenses (\$840). Claimant's net income is found to be \$4580. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's FAP benefit group size and net income, Claimant's proper FAP benefit amount is found to be \$0, the same amount calculated by DHS. It is found that DHS properly denied Claimant's application dated 7/15/10 requesting FAP benefits due to excess income.

**██████████ - CDC**

Claimant also disputed the denial of her application dated 7/15/10 requesting CDC benefits. DHS denied the application based on excess income by Claimant.

The following four eligibility groups are categorically eligible, and do not require an income determination: groups with an open children's protective services case, groups with an active preventive service case, children with an active foster care case or groups with a child or parent receiving Family Independence Program (FIP) or Supplemental Security Income (SSI) benefits. BEM 703 at 13. Claimant's CDC benefit group does not fall into any of these categories.

If the CDC program group does not qualify for one of the categorically eligible groups, the group may still receive CDC benefits based on income-eligibility. To be income eligible, a CDC group's gross countable income must not exceed the income limits of RFT 270. *Id* at 14.

For all programs, DHS is to count gross employment wages. BEM 501 at 5. Claimant testified that her gross monthly employment income was \$6,000/month. The income limit for a three-person CDC group (Dawn is not included as a member) is \$1990. RFT 270 at 1. Without even considering the RSDI of her grandchildren, Claimant's income exceeded the CDC income limits. Accordingly, it is found that DHS properly denied Claimant's application for CDC benefits.

**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 daughter's FAP benefits and denied Claimant's request for CDC and FAP benefits. The actions taken by DHS are AFFIRMED.



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

Date Signed: 1/31/2011

Date Mailed: 1/31/2011

**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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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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