

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. 201117362
Issue No. 3015
Case No. [REDACTED]
Hearing Date: March 7, 2011
SSPC East (98)

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

ISSUE

Whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefits due to excess income.

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 applied for FAP benefits on 10/6/10.
2. Claimant is part of a FAP benefit group of three members.
3. No members of Claimant's FAP benefit group are senior (over 60 years of age), disabled or a disabled veteran.
4. Claimant receives employment income based on a \$15/hour wage and 40 hours per week.
5. Claimant's child receives \$326/month in child support income.

6. Claimant pays \$74/week for dependent care expenses.
7. Claimant pays \$77.79/week for unspecified medical expenses.
8. Claimant pays \$200 per month for renter's insurance.
9. Claimant is responsible for a \$482/month housing obligation.
10. DHS initially processed Claimant's application for expedited FAP benefits and determined that Claimant was eligible for a monthly FAP benefit issuance.
11. Through no fault of Claimant, the initial FAP benefit determination failed to factor Claimant's child support income.
12. When Claimant's ongoing FAP benefits were processed, DHS determined that Claimant had excess income for FAP benefits.
13. DHS terminated Claimant's FAP benefits effective 11/2010.
14. On 11/23/10 Claimant requested a hearing disputing the termination of FAP 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 (RTM). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

In the present case, Claimant disputed the termination of her FAP benefits following an issuance of expedited FAP benefits. Claimant was understandably perplexed that she would have been ineligible for FAP benefits after receiving them shortly after applying. DHS testified that Claimant's initial benefit issuance failed to factor Claimant's child support income causing Claimant to receive FAP benefits for which she was not necessarily entitled. After DHS processed Claimant's verifications, DHS properly factored Claimant's FAP benefits and determined that Claimant was ineligible due to excess income. This explained why Claimant would have initially received FAP benefits and then found to be ineligible; it does not necessarily establish that Claimant was ineligible for FAP benefits effective 11/2010. The undersigned will evaluate whether Claimant was ineligible for FAP benefits effective 11/2010. BEM 556 outlines the proper procedures for calculating FAP benefits.

It was not disputed that Claimant received \$600/week in gross employment income (based on a 40 hour work week and \$15/hour wage). In calculating FAP benefits, DHS is to count the gross employment income amount. BEM 501 at 5.

DHS is to convert stable and fluctuating income that is received more often than monthly to a standard monthly amount; average weekly amount are multiplied by 4.3 to convert the weeks into a standard monthly amount. BEM 505 at 6. Multiplying Claimant's gross weekly income (\$600) by 4.3 creates a monthly standard income of \$2580.

DHS gives a 20% credit for reported employment income. Multiplying Claimant's gross employment income by 80% results in a total countable employment income of \$2064.

DHS budgeted \$326/month in child support toward Claimant's FAP benefit determination. Claimant stated she received \$95/week in child support which was actually more than what DHS budgeted after the weekly amount is converted to a 30 day period. For this decision, the undersigned will accept the DHS stated amount as it is more favorable to Claimant. Adding Claimant's employment income and the child support income results in a total countable income of \$2390.

Claimant's FAP benefit group received a standard deduction of \$141. RFT 255. The standard deduction is a deduction given to all FAP benefit groups though the amount varies depending on the group size.

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 SDV; however, DHS only counts the monthly medical expenses which exceed \$35/month.

Claimant stated that she pays \$200/month in renter's insurance. Renter's insurance is not an allowed expense. BEM 554 at 10.

DHS factored Claimant's dependent care expenses. Claimant stated that she is responsible for a \$74/week dependent care obligation. Weekly obligations are to be converted to a monthly obligation by multiplying the weekly obligation by 4.3. *Id.* at 3. Multiplying Claimant's weekly dependent care obligation by 4.3 results in a monthly obligation of \$318 (dropping cents).

The standard deduction and dependent care expenses are subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$1931.

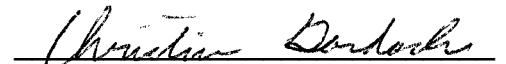
It was not disputed that Claimant is responsible for a \$492/month housing obligation. DHS gives a flat utility standard to all clients. BPB 2 010-008. The utility standard of \$588 (see RFT 255) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$588 amount. The total shelter obligation is calculated by adding Claimant's housing expenses to the utility expenses (\$588); this amount is found to be \$1080.

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 (\$1080) and subtracting half of Claimant's adjusted gross income. Claimant's excess shelter amount is found to be \$115 (rounding up).

Claimant's net income (for purposes of FAP benefits) is finally determined by taking Claimant's adjusted gross income and subtracting the excess shelter expense. Claimant's net income is found to be \$1816. 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 FAP benefit amount is found to be \$0, the same amount calculated by DHS. It is found that DHS properly terminated Claimant's FAP benefits due to excess income.

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 FAP benefits effective 11/2010 due to excess income. The actions taken by DHS are AFFIRMED.


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

Date Signed: 03/14/11

Date Mailed: 03/17/11

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.

CG/dj

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