

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

[REDACTED]

[REDACTED]

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on [REDACTED]. After due notice, a telephone hearing was held on [REDACTED]. Claimant personally appeared and provided testimony.

ISSUES

Whether the department properly determined Claimant's Food Assistance Program (FAP) and Child Development and Care (CDC) benefits?

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 had a hearing on her FAP and CDC eligibility on [REDACTED]. Claimant's FAP and CDC eligibility were redetermined. (Hearing Summary).
2. On [REDACTED], the department mailed Claimant a Notice of Case Action (DHS 1605), informing her that her FAP benefit decreased to [REDACTED] and she was denied CDC benefits because of her excess income. (Department Exhibits 2-5, 12).
3. Claimant received Retirement, Survivors and Disability Insurance (RSDI) in the amount [REDACTED] a month. (Department Exhibit 4).
4. On [REDACTED], the department mailed Claimant a Notice of Case action notifying her that as of [REDACTED], the department had

approved payment of [REDACTED] of her childcare costs and her FAP benefits had decreased [REDACTED] a month. (Department Exhibit 12).

5. Claimant submitted a hearing request on [REDACTED], protesting the denial of CDC benefits and the reduction in her FAP benefits. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) 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 (DHS or department) 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 Bridges Reference Manual (BRM).

All countable earned and unearned gross income available to the client must be considered in determining the client's eligibility for FAP benefits. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The department must count the gross benefit amount before any deductions, unless department policy states otherwise. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the department multiplies the average weekly amount by 4.3. If the client is paid every other week, the department multiplies the average bi-weekly amount by 2.15. BEM 505.

Claimant is not disputing the income the department relied on to determine her FAP eligibility. In [REDACTED] and the standard deduction of [REDACTED] were deducted from Respondent's gross monthly earned income of [REDACTED] 0 resulting in an adjusted gross income of [REDACTED] a month. The department determines a FAP group's net income by deducting certain allowable expenses. These expenses include dependent care expenses, child support expenses and shelter expenses. BEM 554. Respondent had shelter expenses only. Respondent's monthly rent was [REDACTED] and she had a monthly heat/utility obligation. The department properly gave Respondent the heat/utility (including telephone) standard of [REDACTED] RFT 255, effective 10/1/10.

Respondent's total shelter expense was properly determined to be [REDACTED]. Pursuant to departmental policy, [REDACTED], Respondent's adjusted gross income, must be deducted from her total shelter. [REDACTED] Since Respondent's total shelter expense of [REDACTED] is more than [REDACTED] of the adjusted gross income of her FAP group, Respondent had an excess shelter expense of [REDACTED]. The department was required to deduct any excess shelter expense from Respondent's adjusted gross income of [REDACTED] in net income of [REDACTED]. BEM 556.

A client with a group size of two and a net income of [REDACTED] is entitled to a FAP allotment [REDACTED], which is the amount of FAP benefits granted to the Respondent for this period. RFT 260. Based on the evidence and testimony available during the hearing, the department properly established Respondent is receiving the proper amount of FAP benefits.

The Child Development and Care program is established by Titles IVA, IVE, and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

As noted above, Claimant does not dispute the department properly determined Claimant's gross monthly earned [REDACTED] RFT 270. Because Claimant's monthly income of [REDACTED]

[REDACTED]. The Administrative Law Judge finds the department properly determined Claimant's FAP and CDC eligibility based on the material and substantial evidence presented during the hearing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in determining Claimant's FAP and CDC eligibility.

Accordingly, the department's FAP and CDC eligibility determination is AFFIRMED.

It is SO ORDERED.

/s/ _____
[REDACTED]

Date Signed: _____

Date Mailed: _____

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 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.

[REDACTED]