

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.: 2011-23001
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: April 4, 2011
DHS County: Macomb (50-20)

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 April 4, 2011. Claimant appeared and testified at the hearing. [REDACTED]

[REDACTED], appeared and testified for the Department of Human Services (DHS). Also present from DHS was [REDACTED].

ISSUE

Whether Claimant's Food Assistance Program (FAP) benefits were calculated in accordance with DHS policies and procedures?

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 FAP benefits for a family of four persons.
2. In January 2011, DHS conducted a review of Claimant's eligibility for continued FAP benefits.
3. DHS used the correct earned income information from Claimant in recalculating Claimant's eligibility.
4. DHS used the correct \$152 standard deduction from income in recalculating Claimant's eligibility.

5. DHS used incorrect Unemployment Insurance (UI) information in recalculating Claimant's eligibility. DHS used the figure, \$1,057.80, and the correct amount is \$497 for a ten-day period.
6. In January 2011, DHS issued a Notice of Case Action terminating Claimant's FAP benefits.
7. On February 14, 2011, Claimant filed a notice of hearing request with DHS.

CONCLUSIONS OF LAW

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations contained 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 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 DHS manuals are not laws created by the U.S. Congress or the Michigan 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 policy is, I will examine whether it was in fact followed in this case.

At the Administrative Hearing, Claimant questioned why DHS made a standard deduction of \$152 in his case. BEM 550, "FAP Income Budgeting," is the manual item that sets forth the requirement of the standard deduction. BEM 550 states that everyone is allowed this deduction, and that the amount of the deduction can be found by referring to RFT 255, "Food Assistance Standards." Going next to RFT 255, this chart states that the standard deduction for a family of four is \$152. As this is the deduction that was allowed in Claimant's case, I find and conclude that DHS acted correctly in allowing Claimant a \$152 standard deduction from his income in making the calculation of Claimant's eligibility.

Second, Claimant points out that DHS erroneously used \$1,057.80 as his UI income, and he actually received only \$497. At the hearing, DHS could not explain the origin of the higher number, and Claimant produced documentation that he received only \$497. I find and conclude that DHS erred in the amount of Claimant's UI income. Accordingly, substituting the \$497 number, I find that Claimant's net income should be \$2,066, and not \$2,625.

However, I find and conclude that the Claimant's correct net income is still above the maximum for a family of four, as shown in RFT 250, "FAP Income Limits." RFT 250 states that for all FAP family groups of four, the maximum allowable income is \$1,838 per month. I find and conclude that even with the correction, Claimant still has more income, specifically earned income, than the maximum allowable for a person to receive FAP benefits.

In conclusion, based on the findings of fact and conclusions of law, I find and conclude that DHS is AFFIRMED in this case. DHS need take no further action in this case.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, states IT IS ORDERED that DHS is AFFIRMED in this case. DHS need take no further action in this matter.



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

Date Signed: April 11, 2011

Date Mailed: April 12, 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.

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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:

