

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-23113
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: [REDACTED]
District: Macomb County DHS (36)

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 [REDACTED]. The Claimant's spouse appeared and [REDACTED] appeared on behalf of Claimant as an Authorized Hearing Representative (AHR) and interpreter. On behalf of Department of Human Services (DHS), [REDACTED], Assistant Payment Worker, appeared and testified.

ISSUE

Whether DHS properly determined Claimant's eligibility for Food Assistance Program (FAP) benefits effective [REDACTED]

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 was an ongoing FAP benefit recipient.
2. Claimant received [REDACTED] in FAP benefits for [REDACTED]
3. Claimant's FAP benefit group consists of two persons.
4. Claimant received [REDACTED] every two weeks in gross unemployment compensation (UC) income. The Claimant's spouse confirmed this amount as correct. (see Exhibit 2).
5. The Claimant's spouse receives [REDACTED] per month in RS DI benefits. This amount was confirmed by Claimant as correct at the hearing (see Exhibit 2).

6. Claimant is responsible for a monthly shelter obligation. The mortgage amount is [REDACTED]. The summer tax is [REDACTED] and winter taxes are [REDACTED]. (see Exhibit 3).
7. The Claimant's property insurance amount was [REDACTED] annually. (see Exhibit 3).
8. The Claimant's medical expense for Medicaid Part B Premium is [REDACTED] and was deducted as a medical expense when computing the FAP budget. (see Exhibit 2, page 9).
9. On February 24, 2011, Claimant [REDACTED] requested a hearing questioning the computation of the FAP budget and the amount of 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 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 Reference Tables Manual (RFT).

Claimant's primary argument was that DHS calculation of the Claimant's FAP benefits fluctuated and changed for several months, [REDACTED], [REDACTED] and [REDACTED]. The Claimant did not understand why the benefits differed from previous amounts. Though determining the correctness of Claimant's [REDACTED] FAP benefit issuance does not require an explanation concerning why Claimant received more FAP benefits the prior month, it would make sense that Claimant would be doubtful of a changing benefit amount for a three month period, if circumstances did not change.

A parameter that did change was the shelter expense computation after taxes were verified by the Claimant's case worker. DHS explained that Claimant's property tax for summer were submitted not as a tax bill but rather a tax advice letter. After review the Department independently verified the correct amount and recalculated the excess shelter deduction. Thus, while DHS had the right to correct the tax amount, it still must be determined whether DHS properly calculated Claimant's FAP benefit issuance for [REDACTED] when it had all the updated information. BEM 554 outlines the proper procedures for calculating the excess shelter expense.

In this instance the total housing expense amount as calculated is not correct. The excess shelter is determined in part by determining the monthly housing expenses. The monthly expenses in this case are determined by taking the monthly mortgage amount [REDACTED] and adding to it the monthly tax amount ($[REDACTED] + [REDACTED] \div 12 = [REDACTED]$) and the monthly insurance amount ($[REDACTED] \div 12 = [REDACTED]$) for a total of [REDACTED]. The FAP budget For [REDACTED] calculates the housing expense at [REDACTED] for [REDACTED] calculates the housing expense at [REDACTED] and the [REDACTED] budget utilizes [REDACTED].

as the amount of housing expenses. These figures are not supported by the evidence presented at the hearing and are in error.

It was not disputed that Claimant received biweekly Unemployment Compensation (UC) benefits of [REDACTED]. DHS is to count the gross amount of UC in calculating FAP benefits. BEM 503, page 24. To determine the monthly amount received, the gross biweekly amount is multiplied by 2.15 and equals ([REDACTED] X 2.15 = [REDACTED]). It was not disputed that the Claimant's wife receives [REDACTED] in RSDI benefits monthly. The two unearned income amounts total [REDACTED]. The Department incorrectly determined that the countable unearned income was [REDACTED] and based upon the evidence presented was incorrectly calculated.

The Claimant's Part B Medical expense was correctly credited at [REDACTED] and was correctly deducted from the total income amount. Medical expenses are only deducted for expenses that exceed [REDACTED] per month (\$ [REDACTED] - \$ [REDACTED] = \$ [REDACTED]). BEM554 page 8.

Claimant's two-person FAP benefit group received a standard deduction of [REDACTED] RFT 255. The standard deduction is given to all FAP benefit groups though the amount varies based on the benefit 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 not correct because the countable unearned income is incorrect.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554, page 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, DHS considers the following expenses: child care and excess shelter (housing and utilities) up to a capped amount of [REDACTED] per month per RFT 255, and court ordered child support and arrearages paid to non-household members. For groups containing SDV members, such as the Claimant's group, DHS also considers the medical expenses for the SDV group members and does not cap the excess shelter expense. It was not disputed that Claimant's spouse was disabled by virtue of receiving RSDI.

Based upon the foregoing facts and relevant law, it is found that DHS improperly calculated Claimant's FAP benefits for the benefit months of [REDACTED] because it did not correctly calculate gross unearned income and the shelter expense and its determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly calculated Claimant's FAP benefits effective [REDACTED]. The actions taken by DHS are REVERSED.

Accordingly, it is ORDERED:

1. The Department shall recalculate the Claimant's [REDACTED], [REDACTED], and [REDACTED] FAP budgets to correct the gross unearned income amount totals.

2. The Department shall recalculate the Claimant's shelter expenses for the months of [REDACTED], [REDACTED], and [REDACTED] and shall determine the excess shelter deduction utilizing the correct adjusted gross income figure based on the recomputation ordered in paragraph one of this Order.
3. The Department shall issue a FAP supplement to the Claimant for FAP benefits, if any, the Claimant was otherwise entitled to receive for the months in question.

[REDACTED]

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

Date Signed: 05/04/11

Date Mailed: 05/06/11

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.

LMF/dj

cc:

[REDACTED]
Macomb County DHS (Dist #36) / DHS-1843
[REDACTED]

Administrative

Hearings