

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201129612
Issue No. 3015
Case No. [REDACTED]
Hearing Date: [REDACTED]
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 May 12, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly prospected Claimant's income in determining Claimant's eligibility for Food Assistance Program (FAP) benefits.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On an unspecified date, Claimant applied for FAP benefits.
2. DHS determined Claimant's eligibility for FAP benefits based on the "total gross" income listed on Claimant's weekly pays.
3. DHS determined a monthly income of \$4587 for Claimant after some unspecified calculation which factored Claimant's year-to-date income from his 1/14/11 pay.
4. On an unspecified date, DHS determined the \$4587 in gross pay exceeded the limits for a three person FAP benefit group.

5. On 4/1/11, Claimant requested a hearing to dispute the denial 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). DHS (formerly known as the Family Independence Agency) administers the FAP 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 undersigned will refer to the DHS regulations in effect as of 3/2011, the estimated month of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

In the present case, Claimant disputed a DHS decision denying his FAP benefits. Specifically, Claimant disputed the way DHS calculated his income. Claimant's check stubs listed a "total gross" and a lesser "fed taxable gross". Claimant's primary contention was that DHS should have used the lower "fed taxable gross" amount to calculate his income.

Claimant could not explain why "fed taxable gross" was a more appropriate amount to use than "total gross". Claimant was a salesman who was paid partially by a draw but Claimant provided no explanation as to how that affected the "total gross" income.

In calculating FAP benefits, DHS is to count the gross employment income amount. BEM 501 at 5. DHS policy does not reference taxable income, only gross income. Based on the obvious interpretation of this policy, it is found that "total gross", not "fed taxable gross" is the appropriate amount to determine Claimant's income.

For non-child support income, DHS is to use past income to prospect income for the future unless changes are expected. BEM 505 at 4. Specifically, DHS is directed to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. *Id.* The 30-day period used can begin up to 30 days before the interview date or the date the information was requested. *Id.*

The undersigned is somewhat handicapped in that there was no evidence concerning Claimant's application date, interview date or request date. Thus, the undersigned cannot determine what 30 day period would be appropriate for DHS to consider in determining Claimant's FAP benefits. DHS stated in their Hearing Summary that

Claimant's check stubs from 1/14/11 (Exhibit 1), 1/21/11 (Exhibit 2), 1/28/11 (deduced from surrounding pays), 2/4/11 (Exhibit 3) and 2/11/11 (Exhibit 4) were used to determine Claimant's employment income. In lieu of any contradictory evidence, the undersigned is inclined to adopt the 30 day period which encompasses 1/14/11-2/11/11 as the appropriate 30 day window to determine Claimant's income.

Weekly income must be converted to a monthly standard by multiplying the average income by 4.3. *Id* at 6. Claimant's "total gross" for each pay was: [REDACTED] for 1/14/11, [REDACTED] for 1/21/11, [REDACTED] for 1/28/11, [REDACTED] for 2/4/11 and [REDACTED] for 2/11/11. Adding the checks and dividing by five creates an average pay of \$471.64. Multiplying the average check by 4.3 results in a monthly employment income of \$2028.

DHS inexplicably calculated Claimant's monthly income as [REDACTED] (see Exhibit 5). DHS did not specifically identify how that amount was calculated other than stating that Claimant's year-to date income of [REDACTED] from his 1/14/11 check stub (Exhibit 1) was factored. DHS could not explain why the year-to date income had any relevance to properly calculating Claimant's income. Simply based on the DHS failure to explain the income determination, the undersigned can reject the DHS calculation of income. Accordingly, it is found that DHS erred in determining Claimant's income as it relates to Claimant's eligibility for FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for FAP benefits. It is ordered that DHS:

- re-register Claimant's application concerning FAP benefits;
- recalculate Claimant's income based on Claimant's "total gross" income listed on his pays from 1/14/11-2/11/11; and
- supplement Claimant for any FAP benefits not received as a result of the DHS error.

The actions taken by DHS are REVERSED.

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

201129612/CG

Date Signed: May 23, 2011

Date Mailed: May 23, 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.

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 of the rehearing decision.

CG/ctl

cc:

[REDACTED]

Macomb County DHS (36)/1843

[REDACTED]

Administrative Hearings