

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201129962
Issue No. 3002
Case No. [REDACTED]
Hearing Date: May 16, 2011
Macomb County DHS (20)

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 16, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly determined Claimant's Food Assistance program (FAP) benefits effective 5/2011.

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 was part of a household and FAP benefit group of six persons.
3. Claimant's spouse received the following gross pays on the following pay dates from his employment involving packaging: [REDACTED] on 2/3/11, [REDACTED] on 2/10/11, [REDACTED] on 2/17/11 and [REDACTED] on 2/23/11.
4. Claimant's spouse received the following gross pays on the following pay dates from his Belle Tire employment: [REDACTED] on 2/24/11, [REDACTED] on 3/3/11, [REDACTED] on 3/10/11, [REDACTED] on 3/17/11, [REDACTED] on 3/24/11 and [REDACTED] on 3/31/11.

5. Claimant's child received a monthly income of [REDACTED]0 (\$ [REDACTED] federal + \$14 State of Michigan) in Supplemental Security Income (SSI).
6. One of Claimant's children received one payment of [REDACTED] in child support over the three month period from 12/2010-2/2011.
7. Another one of Claimant's children received a [REDACTED] payment in child support over the three month period from 12/2010-2/2011.
8. On an unspecified date, DHS determined Claimant eligible for [REDACTED]/month in FAP benefits effective 5/2011.
9. On 3/25/11, Claimant requested a hearing to dispute the 5/2011 determined FAP benefit issuance.

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 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 \$175/month FAP benefit issuance for 5/2011. BEM 556 outlines the proper procedures for calculating FAP benefits.

A group's benefits for a month are based, in part, on a prospective income determination. BEM 505 at 1. A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation. *Id.*

DHS is to count the gross employment income amount. BEM 501 at 5. DHS converts weekly non-child support income into a 30 day period by multiplying the income by 4.3. BEM 505 at 6.

For Claimant's spouse's employment with a packaging company, DHS did not indicate which pays were used to calculate a monthly income average. The undersigned is

inclined to accept the four pays from 2/2011 as an acceptable representation to prospect the income. Claimant's spouse's four verified 2/2011 gross pays add up to [REDACTED] and result in an average check of [REDACTED]. Multiplying the average check by 4.3 creates a monthly gross average income of [REDACTED] (dropping cents).

For Claimant's spouse's employment with Belle Tire, DHS again did not specify which checks were used in the employment income determination. The undersigned is inclined to use all six verified gross employment payments in the employment income determination. Adding the six pays from 2/24/11-3/31/11 results in a total of [REDACTED] and an average check of [REDACTED]. Multiplying the average check by 4.3 results in a monthly average of [REDACTED] (dropping cents).

Adding the two employment incomes together creates a total employment income of [REDACTED]/month. DHS determined a monthly employment income of [REDACTED]. As DHS determined a slightly more favorable employment income than calculated by the undersigned, there is no basis to reverse DHS on this issue.

To prospect child support income, DHS is to use the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505 at 3. DHS testified that the three month period of 12/2010-2/2011 was used to determine Claimant's child support income. One child received [REDACTED] in the three month period resulting in a monthly average of [REDACTED]. Another child received a [REDACTED] payment in the three month period resulting in a monthly average of [REDACTED].

It was not disputed that one of Claimant's children received SSI totaling [REDACTED] per month. Adding the child support income with the SSI income creates a total unearned income amount of [REDACTED] (dropping cents). DHS determined an unearned income of [REDACTED] month (see Exhibit 1). It is found that DHS erred in determining Claimant's unearned income.

The only other FAP benefit amount in dispute was Claimant's FAP benefit group's child support payments. DHS conceded that Claimant's spouse averaged [REDACTED]/month in payments for each of three children; that would be a total of [REDACTED]. The DHS FAP budget (Exhibit 1) for 5/2011 calculated a [REDACTED] monthly child support deduction. It is found that DHS erred in determining Claimant's FAP group's child support obligations.

No other FAP benefit issues were in dispute. The below order reflects the above findings in which DHS is found to have erred.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP benefit eligibility for 5/2011. It is ordered that DHS:

- redetermine Claimant's FAP benefit eligibility effective 5/2011 by redetermining Claimant's FAP benefit group's child support payments;
- redetermine Claimant's FAP benefit eligibility by recalculating Claimant's FAP benefit group's unearned income;
- supplement Claimant for any FAP benefits not received as a result of the DHS errors.

The actions taken by DHS are REVERSED.

[Redacted Signature]

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

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 (20)/1843

[Redacted]

Administrative Hearings