

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201130576
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: May 23, 2011
Wayne County DHS (19)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 23, 2011. The claimant appeared and testified. [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED] Specialist, appeared and testified.

ISSUE

Whether DHS properly denied Claimant's application for Food Assistance Program (FAP) benefits due to excess income.

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 2/24/11, Claimant applied for FAP benefits.
2. Claimant was part of a household that included her son, [REDACTED]
3. At the time of Claimant's application, Claimant's son was employed with [REDACTED]
4. On 3/9/11, Claimant submitted a Verification of Employment (Exhibit 2) which verified that Claimant's son's first gross employment pay amounted to \$657 (received on 2/18/11).
5. On an unspecified date, DHS denied Claimant's application for FAP benefits because of excess income.

6. On 4/18/11, 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/>.

FAP group composition is established by determining: who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately and whether the person resides in an eligible living situation. BEM 212 at 1. Parents and their children under 22 years of age who live together must be in the same group. *Id.*

Claimant's primary argument was that DHS wrongly included her son's employment income in the determination for her FAP benefits. It was not disputed that at the time of the application, Claimant's son was under 22 years of age and lived with Claimant. As a child under 22 years of age living with a parent, Claimant's son was appropriately considered a mandatory member of Claimant's FAP group.

Claimant responded that her son has moved out of the household since submitting her application. Claimant's son testified that he moved out of his mother's home in 5/2011. Claimant's son moving out of his mother's home in 5/2011 would be relevant for an application for FAP benefits submitted in 5/2011 or later. The change in household would have no effect on Claimant's application dated 2/24/11 or the DHS decision from 3/2011. It is found that DHS properly included Claimant and her child as FAP benefit group members. It must then be determined if Claimant's FAP benefit group was eligible for FAP benefits. BEM 556 outlines the proper procedures for calculating FAP benefits.

The first step in the process is to calculate the FAP benefit group's gross monthly income so a gross income test can be performed. The gross income test is only applicable for groups without a senior, disabled or disabled veteran (SDV) member. BEM 556 at 3. At the time of the application, Claimant was not a disabled individual. It

should be noted that Claimant was subsequently awarded Supplemental Security Income (SSI) benefits for being a disabled individual which would have caused the group to be an SDV group. However, the evidence tended to show that this change occurred after the DHS decision denying Claimant's FAP benefits. Prior to the SSI approval, Claimant would not have been considered a disabled individual (see BEM 550 at 1). Thus, Claimant's FAP benefit group was not an SDV group and the gross income test was appropriately performed.

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.* For starting income, DHS is to use the best available information to prospect income for the benefit month. *Id.* at 6.

In the present case, DHS budgeted Claimant's son's first full weekly gross pay of \$657 and converted it to a monthly income by multiplying by 4.3. The resulting income was \$2825 (see Exhibit 1). Based on the evidence presented, the undersigned finds no fault with the DHS calculation.

If the group's monthly gross income exceeds the monthly gross income limits then the group is automatically denied FAP eligibility. BEM 556 at 3. The gross income test only considers gross income; thus, child support payments, rent, mortgage, utilities and other expenses are not a factor in the gross income test outcome.

The gross income limit for a group of two persons is \$1579. RFT 250 at 1. The FAP benefit group's gross income exceeded the gross income limits which properly resulted in denial of FAP benefits based on income-eligibility. It is found that DHS properly denied Claimant's application for FAP benefits due to excess income. As discussed during the hearing, Claimant is advised to reapply for FAP benefits to have her current FAP benefit eligibility determined.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's FAP benefit application dated 2/24/11 due to excess income. The actions taken by DHS are AFFIRMED.



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

Date Signed: 5/26/11

Date Mailed: 5/26/11

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 of the rehearing decision.

CG/CL

cc:

