

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

IN THE MATTER OF:



Reg. No. 2011-34570
Issue No. 3002
Case No. [REDACTED]
Hearing Date: June 15, 2011
DHS County: Wayne (17)

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 June 15, 2011. The Claimant appeared and testified at the hearing. [REDACTED] appeared and testified as a witness for Claimant. [REDACTED] Eligibility Specialist, and [REDACTED] interpreter, appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS calculated Claimant's Food Assistance Program (FAP) benefits in accordance with DHS policy and procedure?

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 2011, Claimant received \$285 per month FAP benefits from DHS.
2. In April 2011, DHS conducted a review of Claimant's family income.
3. DHS determined that Claimant's income was \$3,319 per month.

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4. On April 22, 2011, DHS issued a Notice of Case Action telling Claimant her FAP benefits would be decreased to \$35, effective June 1, 2011.
5. On April 28, 2011, Claimant filed a Notice of Hearing Request with DHS.
6. At the Administrative Hearing on June 15, 2011, DHS could not explain how the \$3,319 income figure was calculated.

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 FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-400.3015. Department policies are found in Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

BAM, BEM and RFT are the policies and procedures DHS officially created for its own use. While the 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.


BEM 212, "Food Assistance Program Group Composition," BEM 503, "Income, Unearned," BEM 550, "FAP Income Budgeting," and BEM 554, "FAP Allowable Expenses and Expense Budgeting," and RFT 260, "Food Assistance Issuance Tables," are the DHS manual items which provide the procedures for DHS' action in this case.

I have reviewed all of the evidence and testimony in this case as a whole. I determine and conclude that the Agency cannot explain how it calculated Claimant's countable unearned income. DHS' evidence results in an income figure of \$3,073.60, which is somewhat lower than \$3,319, the figure DHS calculated for the FAP budget. Accordingly, I am remanding this case back to DHS to recalculate the correct income and the FAP budget in this case.

In conclusion, based on all of the findings of fact and conclusions of law, I find and conclude that DHS is REVERSED in this case. DHS shall recalculate Claimant's FAP budget and provide any supplemental retroactive benefits appropriate to restore Claimant to the benefit level to which she is entitled.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, states that DHS is REVERSED. IT IS ORDERED THAT DHS shall recalculate Claimant's FAP budget and provide any supplemental retroactive benefits necessary to restore her to the benefit level to which she is entitled. All steps shall be taken in accordance with DHS policy and procedure.



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

Date Signed: June 20, 2011

Date Mailed: June 20, 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 date of the rehearing decision.

JL/cl

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