

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]

Reg. No: 2011-34733
Issue No: 3002

[REDACTED]
[REDACTED]
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on June 21, 2011. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly budget the claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. The claimant's FAP case was originally budgeted using the amount of [REDACTED] for housing expenses, resulting in an excess shelter deduction in the amount of [REDACTED] (Department Exhibit 10).
2. Using this excess shelter deduction amount, the department calculated the claimant's FAP budget, resulting in a FAP benefit amount of [REDACTED]. (Department Exhibit 11).
3. The claimant provided financial information relating to his mortgage to the department showing a total monthly payment of [REDACTED], including escrowed taxes and insurance premiums. (Department Exhibit 5).

4. Based on this information, the department recalculated the claimant's FAP budget using the amount of [REDACTED] for housing expenses, resulting in an excess shelter deduction in the amount of [REDACTED]. (Department Exhibit 6-9).
5. Using the adjusted excess shelter deduction, the department recalculated the claimant's FAP budget, resulting in a reduced FAP benefit in the amount of [REDACTED]. (Department Exhibit 6-9).
6. The claimant was mailed a Notice of Case Action (DHS-1605) on May 16, 2011, informing him of the decrease in FAP benefits. (Department Exhibit 3 – 4).
7. The claimant submitted a hearing request on May 23, 2011.

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) 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 (DHS or department) 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 Program Reference Manual (PRM).

Department policy states:

INCOME

DEPARTMENT POLICY

All Programs

The group composition and program budgeting items specify whose income to count. The program budgeting items might also contain program-specific income deductions or disregards.

Income means benefits or payments measured in money. It includes money a person owns even if NOT paid directly such as stock dividends automatically reinvested and income paid to a representative.

Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means all income that is NOT earned income. The item specifies whether the income is earned or unearned.

Unearned income is all income that is not earned.

The amount of income counted may be more than the amount a person actually receives, because it is the amount before any deductions including deductions for taxes and garnishments. The amount before any deductions is called the **gross** amount. BEM, Item 500, p. 1.

UNEARNED INCOME TYPES

All Types of Assistance

RETIREMENT INCOME-OTHER

All Types of Assistance

Other retirement income includes annuities, private pensions, military pensions, and state and local government pensions. Refer to the specific sections in this item for policies regarding:

- Railroad Retirement Board benefits.
- Retirement, Survivors and Disability Insurance (RSDI).
- U.S. Civil Service and Federal Employee Retirement System.
Count the gross benefit as unearned income.

RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) (AKA SOCIAL SECURITY BENEFITS)

All Types of Assistance

RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. Bridges counts the gross benefit amount as unearned income.

Exceptions:

- Special rules apply when determining MA eligibility for certain former SSI recipients; see [BEM 155](#), 503 Individuals, [156](#), COBRA WIDOW(ER)S, [157](#), EARLY WIDOW(ER)S and [158](#), DISABLED ADULT CHILDREN. These special rules do **not** apply to post-eligibility patient-pay amount calculations in BEM [546](#).
- Exclude Medicare premium refunds as income and as assets. Refunds are made because there is a delay of about 120 days between when Medical Services Administration initiates Medicare buy-in and an individual's benefit check actually changes: see BAM 810.
- The Social Security Administration authorizes qualified organizations to deduct a fee for acting as a representative payee. Exclude the fee withheld by an authorized organization.
- See [BEM 500](#), Returned Benefits.
- See [BEM 400](#), Retroactive RSDI and SSI Exclusion.

**PROSPECTIVE BUDGETING/INCOME CHANGE
PROCESSING**

DEPARTMENT PHILOSOPHY

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

Get input from the client whenever possible to establish this "best estimate" amount. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process. BEM, Item 505, p. 1.

DEPARTMENT POLICY

FIP, SDA, CDC and FAP

A group's financial eligibility and monthly benefit amount are determined using:

- . actual income (income that was already received), and/or
- . prospected income amounts (not received but expected).

Only countable income is included in the determination (see BEM 500).

Each source of income is converted to a standard monthly amount, unless a full month's income will not be received (see Standard Monthly Amount in this item). BEM, Item 505, p. 1.

INCOME DEDUCTIONS

Earned Income Disregard

Deduct \$200 from each person's countable earnings. Then deduct an additional 20% of each person's remaining earnings. The total disregard cannot exceed countable earnings. Apply this disregard separately to each program group member's earned income. BEM, Item 518, p. 4.

A non-categorically eligible, non-SDV FS group must have income below the gross and net income limits. BEM, Item 550, p. 1.

Use **only** available, countable income to determine eligibility. BEM 500 defines countable income. BEM 505 defines available income and income change processing. This item describes income budgeting policy. BEM, Item 550, p. 1.

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered.

Budget the entire amount of earned and unearned countable income. Gross countable earned income is reduced by a 20% earned income deduction. Every case is allowed the standard deduction shown in RFT 255. BEM, Item 550, p. 1.

This item applies **only** to FAP.

Bridges uses certain expenses to determine net income for FAP eligibility and benefit levels.

- For groups with **no** senior/disabled/disabled veteran (SDV) member, Bridges uses the following:
 - Dependent care expense.
 - Excess shelter up to the maximum in RFT 255.
 - Court ordered child support and arrearages paid to non-household members.
- For groups **with** one or more SDV member, Bridges uses the following; see BEM 550:
 - Dependent care expense.
 - Excess shelter.
 - Court ordered child support and arrearages paid to non-household members.
 - Medical expenses for the SDV member(s) that exceed \$35.

Housing Expenses

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group.

The expense must be a continuing one. Payments that exceed the normal monthly obligation are **not** deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, **and** it has **not** been allowed in a previous FAP budget. Additional expenses for optional charges, i.e., carport, pets, etc. are **not** allowed. BEM, Item 554, p. 9.

MANDATORY HEAT AND UTILITY STANDARD

Heat Separate from Housing Costs

A FAP group which has a heat expense or contributes to the heat separate from rent, mortgage or condominium /maintenance payments, must use the Heat and Utility Standard. This standard covers all heat and utility costs except **actual utility expenses, i.e. installation fees**, etc. (See Actual Utilities in this item.) Do **not** prorate the Heat and Utility Standard even if the heat expense is shared.

FAP groups that qualify for the Heat and Utility Standard **do not** receive any other individual utility standards. BEM, Item 554, p. 11.

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM 500. A standard deduction from income of [REDACTED] is allowed. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$300 for non-senior/disabled/veteran households and unlimited in senior/disabled/veteran households. BEM 500 and 554; Program Reference Manual, Table 255; 7 CFR 273.2.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the department properly computed the claimant's net income. Based on the testimony given at the hearing, the department initially computed the claimant's FAP budget using housing expenses in the amount of [REDACTED]. This amount included \$818.00 for a mortgage payment and [REDACTED] for taxes and insurance premiums. The department later discovered that the claimant's mortgage payment of [REDACTED] included escrowed payments for taxes and insurance premiums. As such, the department properly recalculated the claimant's housing expenses by excluding the additional [REDACTED] from the claimant's housing expense deductible and using the total of [REDACTED].

The claimant testified that the department had also not properly calculated his medical expenses in determining his FAP budget. However, the claimant also testified that he had only recently submitted verification of his medical expenses to the department. The department acknowledged receipt of the claimant's medical expenses and stated that a new budget will be prepared using the medical expenses provided by the claimant.

The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. The department in compliance with the federal regulations has prepared issuance tables which are set forth at Bridges Reference Manual, Table 260. The issuance table provides that a household with household size and net income of the claimant is eligible for an FAP allotment of [REDACTED] (beginning June 1, 2011), which was accurately computed by the department.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly budgeted the claimant's FAP benefits.

Accordingly, the department's determination is UPHELD. SO ORDERED.

_____/s/_____
Suzanne L. Morris
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 6/24/11

Date Mailed: 6/24/11

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.

SM/ds

