

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

IN THE MATTER OF:

[REDACTED]

Registration. No: 2011-34746

Issue Nos: 3002; 3015

[REDACTED]

[REDACTED]

Eaton County DHS

Administrative Law Judge: Mark A. Meyer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge in accordance with MCL 400.9, MCL 400.37 and 1979 AC, R 400.903. Claimant requested a hearing on May 23, 2011, and, after due notice, one was held on June 16, 2011. Claimant appeared at hearing and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

ISSUE

In dispute was whether the Department properly determined that Claimant was ineligible for Food Assistance Program (FAP) benefits for the period in issue, due to excess income.

FINDINGS OF FACT

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

1. Claimant most recently began receiving FAP benefits on March 16, 2011. (Department's Exhibit D1; Department's notice of case action, dated April 11, 2011, pp 1-2.)
2. Claimant was determined to be in a non-senior/disabled/veteran (SDV) FAP group size of four. (Department's Exhibit D3, p 1.) This determination was undisputed.
3. On May 3, 2011, Claimant provided documentation to the Department indicating that the eligibility determination group's (EDG) gross earned income was [REDACTED]. (Department's Exhibit D3, FAP budget; Department's hearing

summary, dated May 23, 2011.) Claimant did not dispute the actual amount of this income.

4. Based on this information, the agency determined that Claimant's net income exceeded the eligibility limit for receipt of FAP benefits. (Department's Exhibit D3, p 1.)
5. The Department subsequently issued a notice of case action to Claimant informing her that, effective June 1, 2011, FAP benefits would cease. (Department's notice of case action, dated May 13, 2011.)
6. From the Department's FAP determination, Claimant filed a request for hearing, contesting the termination of her monthly benefits. (Claimant's hearing request, dated May 23, 2011.)

CONCLUSIONS OF LAW

The hearing and appeals process for applicants and recipients of public assistance in Michigan is governed by 1979 AC, R 400.901 through 400.951, in accordance with federal law. An opportunity for hearing must be granted to an applicant who requests a hearing because his claim for assistance is denied or not acted on with reasonable promptness, and to any recipient who is aggrieved by Department action resulting in suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1).

An applicant or recipient holds the right to contest an agency decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department must provide an administrative hearing to review the decision and determine its appropriateness. Bridges Administrative Manual (BAM) 600, p 1.¹

Here, the Department approved Claimant's application for FAP, determining that she was entitled to a monthly benefit of [REDACTED] per month for the period March 16, 2011, through March 31, 2011, and [REDACTED] per month for the period April 1, 2011, through February 29, 2012. But, based on subsequent earned income documentation provided by Claimant, the agency determined that her FAP group's net income exceeded the eligibility limit for benefits. From this determination, Claimant filed a request for hearing. A timely notice of hearing was subsequently issued.

FAP – formerly known as the Food Stamp Program – was established by the Food Stamp Act of 1977, 7 USC 2011, *et seq.*, as amended, and is implemented through federal regulations found in the Code of Federal Regulations (CFR), 7 CFR 273.1 *et seq.* The Department administers the FAP under MCL 400.10, *et seq.*, and Rules 400.3001 through 400.3015. Agency policies pertaining to the FAP are found in the BAM, Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

¹ All citations are to Department of Human Services (Department) policy in effect at the time of the agency action in issue.

In completing a FAP budget to determine eligibility or benefit level, the entire amount of countable and available income, both earned and unearned, is used. BEM 505, p 2; BEM 550, p 1. Countable income is defined as "income remaining after applying [applicable agency policy]." BEM 500, p 3; BEM 505, p 1. All income that is not specifically excluded is deemed countable income. BEM 500, p 3. Available income is that actually received or reasonably anticipated. BEM 505, p 1.

Earned income means income received from another person or organization, or from self-employment, for duties that were performed for compensation or profit. BEM 500, p 3. An example of earned income would be wages received from employment. See, e.g., BEM 501, p 5.

The Department determines FAP eligibility and benefit amount using: (1) actual income (income that was already received), and (2) prospective income (income amounts not received but expected). BEM 505, p 1. When the Department is made aware of, or the client reports, a change in income that will affect eligibility or benefit level, a FAP budget must be completed. BEM 505, p 7.

For FAP budgeting purposes, gross countable earned income is reduced by a twenty percent deduction, plus a standard deduction determined by FAP group size. BEM 550, p 1; BEM 556, pp 2-3. The result of these reductions is the adjusted gross income. In the present matter, it was undisputed that Claimant provided information to the Department demonstrating that her husband, a member of the FAP group of four, received earned income from two separate employers totaling [REDACTED].² Using this amount, the agency subtracted the twenty percent earned income deduction ([REDACTED]) and the standard deduction for a FAP group of four ([REDACTED]), arriving at an adjusted gross income of [REDACTED].

A client's excess shelter deduction, if any, is then deducted from the adjusted gross income. To determine the excess shelter deduction, the client's actual shelter expenses (e.g., rent, mortgage, taxes, property insurance, etc.) are added to a heat/utility standard. From this total amount is subtracted the product of the client's adjusted gross income multiplied by 50%. The difference results in the adjusted excess shelter amount. See BEM 556, p 4. Here, Claimant reported no shelter expenses to the Department; according to her testimony, there were none based on the living arrangement of the FAP group. The agency did apply the [REDACTED] heating/utility standard (see RFT 255) in determining a total shelter expense amount of [REDACTED]. (Department's Exhibit D4.) Fifty percent of Claimant's adjusted gross income was [REDACTED]. Subtracting this amount (\$1,184.00) from the total shelter expense resulted in a negative number; Claimant's adjusted shelter expense was thus deemed to be [REDACTED]. (Department's Exhibit D4.) Because there was no excess shelter

² Spouses who are legally married and live together must be in the same Food Assistance Program (FAP) group. Bridges Eligibility Manual (BEM) 212, p 1. The countable income of the group is included when determining FAP eligibility and benefit level. See BEM 550, p 1.

expense, nor any other established deduction from Claimant's [REDACTED] adjusted gross income, the net income for the FAP group was the same amount [REDACTED]). (Department's Exhibit D3, pp 1-2.)

A non-categorically eligible, non-SDV FAP group (such as Claimant in the present matter) must have income below the gross and net income limits. BEM 550, p 1.³ Federal regulations found at 7 CFR 273.10 provide standards for net income and corresponding amounts of household FAP benefits. In accordance with these regulations, the Department prepared income and issuance tables that are found at RFT 250 and 260. According to RFT 260, a client with a group size of four and a determined monthly net income of [REDACTED] is not entitled to FAP benefits. See RFT 260, p 21. In fact, the maximum net monthly income for a non-categorical FAP group of four is \$1,838.00. See RFT 250; RFT 260, p 16.

For current and future benefit months determination, the Department establishes income using a best estimate of income expected to be received during the month or already received. BEM 505, p 2. Here, Claimant testified that the [REDACTED] in reported earned income was not representative of the normal income received by the FAP group. She provided no testimony or other evidence, however, indicating that Claimant informed the Department that this income amount was an aberration. See BEM 515, pp 1-6.

The Department must take action and issue proper notice to a client when an established income increase results in a FAP benefit decrease. See BEM 505, p 9. The agency did so in the present matter.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge decides that the Department acted in accordance with established policy in closing Claimant's FAP case based on income information she provided.

The Department's action is AFFIRMED.

³ A senior/disabled/veteran (SDV) Food Assistance Program (FAP) group is one that has at least one SDV member; what constitutes an SDV member may be found at BEM 550, p 1. Based on the record, it did not appear that Claimant's FAP group contained an SDV member.

It is SO ORDERED.

_____/s/_____
Mark A. Meyer
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: __6/20/11_____

Date Mailed: __6/20/11_____

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.

Claimant may appeal this Decision and Order to the Circuit Court for the county in which he/she resides within 30 days of the mailing of this Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

MAM/ds

