

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 201134854
Issue No: 3002
Case No: [REDACTED]
Hearing Date:
June 21, 2011
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on February 4, 2010. After due notice, a telephone hearing was held on Tuesday, June 21, 2011.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) eligibility?

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 is an ongoing Food Assistance Program (FAP) recipient.
2. The Claimant began receiving unemployment compensation benefits, and the Department conducted a routine examination of his eligibility for the Food Assistance Program (FAP).
3. The Claimant receives monthly unemployment compensation benefits in the gross monthly amount of \$1,010.

4. The Claimant does not pay for heat separately from his monthly shelter expense.
5. On February 2, 2010, the Department notified the Claimant that his monthly Food Assistance Program (FAP) allotment would be reduced to \$16.
6. The Department received the Claimant's request for a hearing on February 4, 2011, protesting the reduction of his Food Assistance Program (FAP) benefits. The request was received three days after the Department sent its notice of case action.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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). 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be before than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505.

In this case, the Claimant is an ongoing Food Assistance Program (FAP) recipient. The Claimant began receiving unemployment compensation benefits, and the Department conducted a routine examination of his eligibility for the Food Assistance Program (FAP).

The Claimant received Food Assistance Program (FAP) as a group of one. The Claimant receives monthly unemployment compensation benefits in the gross monthly amount of \$1,010. This was determined by multiplying his bi-weekly unemployment compensation benefit of \$470 by the monthly conversion factor of 2.15. The Claimant's adjusted gross income of \$878 was determined by subtracting the standard deduction of \$132 from his total countable monthly income. The Claimant's excess shelter deduction of \$661 was determined by adding his monthly shelter expense of \$525 to the non-heat electric standard deduction of \$102, and the telephone standard of \$34, and then subtracting 50% of his adjusted gross income. The Claimant receives heat as part of his shelter expense.

The Claimant's net income of \$656 was determined by subtracting the excess shelter deduction from the adjusted gross income. A claimant with a group size of one and a net income of \$565 is entitled to a FAP allotment of \$16. RFT 260.

On February 1, 2010, this eligibility determination was a correct. However, as of March 1, 2010, the Department changed the policy that determines allowable expenses under the Food Assistance Program (FAP).

Effective March 1, 2010, Bridges Eligibility Manuel Item 554 permits all Food Assistance Program (FAP) groups to receive the heat and utility standard based on the receipt of \$1 in Low Income Home Energy Assistance Program (LIHEAP). This LIHEAP benefit allows all Food Assistance Program (FAP) cases to receive the heat and utility standard, even if they do not have the responsibility to pay and do not provide verification.

This Administrative Law Judge finds that the Department failed to properly compute the Claimant's eligibility for the Food Assistance Program (FAP) based on the most current policy during the appropriate eligibility period. The Claimant was eligible to receive Food Assistance Program (FAP) benefits using the heat and utility standard deduction under the Low Income Home Energy Assistance Program as of March 1, 2010, and during each month thereafter that he was eligible for benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to properly determined the Claimant's eligibility for the Food Assistance Program (FAP).

Accordingly, the Department's Food Assistance Program (FAP) eligibility determination is **REVERSED**. It is further **ORDERED** that the Department shall:

1. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of March 1, 2010.
2. Provide the Claimant with written notification of the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits he may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 27, 2011

Date Mailed: June 28, 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.

KS/tg

cc:

