

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201136316
Issue Nos: 3002; 3003
Case No: [REDACTED]
Hearing Date: June 30, 2011
Ingham 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 April 29, 2011, and, after due notice, one was held on June 30, 2011. Claimant and her representative 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 reduced Claimant's Food Assistance Program (FAP) benefits.

FINDINGS OF FACT

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

1. At all times relevant to this matter, Claimant was receiving FAP benefits.
2. Claimant was part of a FAP group size of 4. (Department's exhibits D-1, p 1; Department's exhibit D-2, p 1.)
3. For the benefit period beginning March 1, 2011, the Department calculated a FAP budget, resulting in monthly benefits to Claimant in the amount of [REDACTED]. Based on Claimant's determined net monthly income, however, this amount was computed in error. At some point this error was recognized by the agency. (Department's exhibit D-2; Department's hearing summary, dated June 8, 2011.)

4. For the benefit period beginning June 1, 2011, the Department recalculated Claimant's FAP budget to correct the error in benefit amount. This recalculation resulted in a reduction of Claimant's benefits to [REDACTED] per month. (Department's exhibit D-1; Department's exhibit D-3.)
5. The Department informed Claimant of this determination on April 18, 2011. (Department's exhibit D-3.)
6. From this action, Claimant filed a request for hearing to contest the reduction in her FAP benefits. (Claimant's hearing request, dated April 29, 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, as the result of a discovered computing error, the Department recalculated Claimant's FAP budget. This recalculation resulted in a reduction of Claimant's monthly FAP benefits to [REDACTED] per month, effective June 1, 2011. 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, 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). The goal of the FAP is to ensure sound nutrition among children and adults. BEM 230B.

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

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

that amount actually received or reasonably anticipated. BEM 505, p 1. Unearned income is income that is not "earned income." BEM 500, p 3. Examples include, but are not limited to certain funds received from the Family Independence Program (FIP), Medicaid (MA), State Disability Assistance (SDA), Child Development and Care (CDC), Social Security benefits (RSDI/SSI), unemployment compensation, workers' compensation, veteran's benefit, child support, alimony, and educational assistance payments. BEM 503, pp 2-32.

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. Moreover, 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.

For FAP budgeting purposes, gross countable income is reduced by a twenty percent earned income deduction (if earned income is present), and by 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, the Department computed a monthly FAP budget for the period beginning March 1, 2011. Claimant's countable unearned income, from SSI and Family Independence Program (FIP) benefits, totaled [REDACTED] per month; she had no earned income. After accounting for the standard deduction of [REDACTED] (see RFT 255), Claimant's monthly adjusted gross income was properly determined to be [REDACTED].

A client's excess shelter deduction, if any, is then subtracted from the adjusted gross income. To determine the excess shelter deduction, the client's actual housing expenses (e.g., rent, mortgage, taxes, property insurance) are added to a heat/utility standard – currently [REDACTED]. (See RFT 255.) From this total amount is subtracted the product of the client's adjusted gross income multiplied by fifty percent. The difference results in the adjusted excess shelter amount. See BEM 556, p 4.

Here, for the benefit period beginning March 1, 2011, the Department failed to include Claimant's actual monthly housing expenses of [REDACTED] in determining an excess shelter expense of [REDACTED] ([REDACTED]). Subtracting this erroneous amount from Claimant's adjusted gross income resulted in a net monthly income of [REDACTED] ([REDACTED]).

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 entitled to FAP benefits in the amount of [REDACTED] per month. RFT 260, p 8. For reasons unexplained, however, the Department

compounded its erroneous budget calculation by determining that Claimant was entitled to a monthly FAP benefit of [REDACTED].²

At some point in time, the Department recognized its error and a revised FAP budget was computed. There was no change in Claimant's monthly adjusted gross income – it remained at [REDACTED]. This time, however, the agency properly included Claimant's actual monthly housing expenses (documented to have increased to [REDACTED] per month) in the computation of her excess shelter deduction. As a result, this deduction totaled [REDACTED] ([REDACTED]). Subtracting Claimant's [REDACTED] excess shelter deduction from her monthly adjusted gross income resulted in a monthly net income of [REDACTED].

Again, based on federal regulations and RFT 260, a client with a group size of four and a determined monthly net income of [REDACTED] is entitled to FAP benefits in the amount of [REDACTED] per month. RFT 260, p 16. The Department's revised benefit level determination was therefore correct in this 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 reducing Claimant's monthly FAP benefit level to [REDACTED] per month, effective June 1, 2011.

The Department's action is AFFIRMED.

It is SO ORDERED.

/s/

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

Date Signed: July 1, 2011

Date Mailed: July 5, 2011

² It is noted that for a Food Assistance Program (FAP) group of four to receive [REDACTED] per month in benefits, there would have to be a [REDACTED] monthly net income. See Reference Table Manual (RFT) 260, p 1.

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.

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