

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-36379
Issue No: 1018, 3003
Case No: [REDACTED]
Hearing Date:
July 19, 2011
Muskegon 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 July 19, 2011. The claimant appeared and provided testimony, along with her mother, [REDACTED]

ISSUES

1. Did the department properly find the claimant was excess income for Family Independence Program (FIP) benefits and change the claimant to the EFIP grant?
2. 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 had a change in unearned (Unemployment Compensation Benefits) and unearned income (claimant began new employment) in April, 2011. (Department Exhibit 2.1)
2. On January 27, 2011, the department mailed the claimant a Verification Checklist (DHS-3503) that requested proof of the claimant's mortgage expense by February 7, 2011. (Department Exhibit 2.36)

3. The claimant provided a copy of the land contract on February 22, 2011. (Department Exhibit 2.39 – 2.52)
4. The department mailed the claimant a Notice of Case Action (DHS-1605) on April 16, 2011, showing the FIP decrease to \$ [REDACTED] per month and a FAP decrease to \$ [REDACTED] per month. (Department Exhibit 1 – 8)

CONCLUSIONS OF LAW

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).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy states:

UNEMPLOYMENT BENEFITS

All Programs

Unemployment benefits include:

- . Unemployment Compensation Benefits (UCB) available through the Michigan Unemployment Agency and comparable agencies in other states, and
- . Supplemental Unemployment Benefits (SUB pay) from an employer or other source.

Count the gross amount as unearned income. BEM, Item 500, p. 34.

FAP ALLOWABLE EXPENSES AND EXPENSE BUDGETING

DEPARTMENT POLICY

This item applies **only** to FAP.

Budget the following expenses to determine net income for FAP eligibility and benefit levels. BEM, Item 554, p. 1.

- . Groups **with** one or more SDV member:
 - .. dependent care expense up to the maximum in RFT 255; and
 - .. excess shelter, and
 - .. court-ordered child support and arrearages paid to non-household members, and
 - .. medical expenses for the SDV member(s) that exceed \$35 BEM, Item 554, p. 1.

Complete either manually-calculated or LOA2 budget to document expenses every time an expense change is reported. BEM, Item 554, p. 1.

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.

As an initial matter, the claimant reported that her Medicaid was no longer an issue, as the department corrected her medical coverage to full Transitional Medicaid (TMA). Thus, the only remaining issues were the amount of FIP and FAP benefits.

To be eligible for FIP benefits, Department policy indicates that financial need must exist for a group to be eligible for FIP benefits. BEM 518. Financial need exists when the eligible group passes both the **"Deficit Test"** and the **"Child Support Income Test"**. To perform the deficit test, subtract the **program group's** budgetable income from the **eligible group's** Payment Standard (BEM, Item 515) for the benefit month.

The FIP payment standard for this group size is \$ [REDACTED]. However, the income of the family exceeds the payment standard, as the claimant had unearned income of \$ [REDACTED] and her husband had unearned income of \$ [REDACTED]. The claimant did verify that the earned and unearned income amounts used by the department were accurate. This brings the claimant's countable income to \$ [REDACTED] which exceeds \$ [REDACTED] payment standard. This made the claimant ineligible to receive FIP benefits. However, families can receive Extended FIP benefits (EFIP) for up to six months, with a grant of \$ [REDACTED] when loss of FIP eligibility relates to income from employment of a FIP program group member. BEM 519. Thus, the department properly placed the claimant's group on EFIP benefits.

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. A 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 \$ [REDACTED] for non-senior/disabled/veteran households. BEM 500 and 554; Program Reference Manual, Table 255; 7 CFR 273.2.

The claimant's dispute with the FAP benefits centers on her housing expenses not being included in the FAP budget. The department mailed the claimant a Verification Checklist (DHS-3503) on January 27, 2011 and requested proof of the claimant's mortgage expense by February 7, 2011. The claimant did provide verification of the land contract, but not until February 22, 2011. The department indicated that the land contract expenses were not budgeted into the March, April, May or June, 2011 FAP budgets.

Department policy indicates that for non-income changes, the department is to complete the FAP eligibility determination and required case actions in time to affect the benefit month that occurs ten days after the change is reported. BAM 220. Thus, in this case, the department should have affected the April, May and June, 2011 budgets. The claimant did receive the maximum amount of FAP benefits for March, 2011. Thus, the department must issue supplements to the claimant, if not already done.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department is UPHELD, in part and REVERSED, in part.

The department properly determined the claimant was excess income to receive FIP benefits and changed the claimant to the EFIP grant. Accordingly, this action is UPHELD.

The department improperly budgeted the claimant's Food Assistance Program (FAP) benefits. Accordingly, this action is REVERSED. The department shall initiate a rebudgeting of the claimant's FAP benefits for April, May and June, 2011 and issue any supplements the claimant is due, if not already done.

SO ORDERED.

Suzanne

/s/

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

Date Signed: October 5, 2011

Date Mailed: October 5, 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 90 days of the filing of the original request.

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

SM/ac

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