

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No. 201137068  
Issue No. 3002 3014  
Case No. [REDACTED]  
Hearing Date: July 11, 2011  
Wayne County (55)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on July 11, 2011 from Detroit, Michigan. The Claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

**ISSUE**

Whether DHS properly determined Claimant's Food Assistance Program (FAP) benefits effective 2/2011 and 6/2011.

**FINDINGS OF FACT**

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

1. On 1/31/11, Claimant applied for FAP benefits (see Exhibit 6).
2. Claimant was part of a two person household that included himself and his spouse.
3. Claimant's spouse was a permanent resident with a category code of IR1 ( see Exhibit 2).
4. Claimant's spouse entered the United States on [REDACTED] (see Exhibit 2).
5. Claimant had an income of \$724/two weeks in unemployment compensation (UC).

6. Claimant failed to initially verify any expense for housing.
7. On 2/1/11, DHS determined Claimant to be eligible for \$16 in FAP benefits effective 1/31/11 based, in part, on an unverified housing obligation and a one person household.
8. On 3/15/11, Claimant requested a hearing to dispute the amount of the FAP benefit issuance.

### **CONCLUSIONS OF LAW**

The Food Assistance Program (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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

The undersigned will refer to the DHS regulations in effect as of 2/2011, the month of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

In the present case, Claimant applied for FAP benefits on 1/31/11. Claimant disputed the subsequent \$16 FAP benefit determination by DHS. BEM 556 outlines the proper procedures for calculating FAP benefits.

Claimant's primary dispute was that DHS failed to factor his wife's presence in the household when DHS determined Claimant's FAP benefit eligibility. DHS calculated Claimant's eligibility based on a group size of one person because Claimant's spouse was found ineligible to receive FAP benefits based on her residency status.

For all programs, a person must be a U.S. citizen or have an acceptable alien status to be eligible for FAP benefits. BEM 225 at 2. For purposes of FAP benefits, the following persons meet the DHS definition of citizenship or acceptable alien status (see BEM 225 2-6):

- U.S. citizen (including persons born in Puerto Rico).
- Certain children of United States citizens (see BEM 225 at 3 for examples)
- Persons born in Canada who are at least 50 percent American Indian.
- Members of a federally-acknowledged American Indian tribe.

- Qualified military aliens--a qualified alien on active duty in, or veteran honorably discharged from, the U.S. Armed Forces.
- A qualified alien spouse and unmarried qualified alien dependent child of a qualified military alien.
- Holder of one of the following immigration statuses:
  - Permanent resident alien with class code RE, AS, SI or SQ on the I-551 (former refugee or asylee);
  - Refugee admitted under INA section 207;
  - Granted asylum under INA section 208;
  - Cuban/Haitian entrant;
  - Amerasian under P.L. 100-202 (class code AM on the I-551);
  - Victim of trafficking under P.L. 106-386 of 200;
  - Alien whose deportation (removal) is being withheld under INA section 241(b)(3) or 243(h);
- An alien who has been battered or subjected to extreme cruelty in the United States or whose child or parent has been battered or subjected to extreme cruelty in the United States.
- A qualified alien who was lawfully residing in the U.S. on August 22, 1996, and was 65 years of age or older on August 22, 1996. A person who is lawfully residing in the U.S. and was a member of a Hmong or Highland Laotian tribe at the time that the tribe assisted U.S. personnel by taking part in a military or rescue operation during the Vietnam era beginning August 5, 1964, and ending May 7, 1975 or the spouse or dependent child of such a person;
- A person lawfully residing in the U.S. and disabled now;
- A person who has lived in the U.S. as a qualified alien for at least five years since their date of entry; or
- A qualified alien who is under 18 years of age.

It was not disputed that Claimant's spouse entered the United States on [REDACTED] and entered the United States by virtue of her marriage to Claimant, a United States citizen. Claimant's residency in the U.S. is far less than the five years needed to establish FAP benefit eligibility. Also, Claimant's category code is not one that would justify FAP benefit eligibility. Accordingly, Claimant's spouse failed to meet any of the acceptable status criteria to be eligible for FAP benefits. It is found that DHS properly considered Claimant's FAP benefit eligibility based on a group size of one person.

It was not disputed that Claimant received \$724/two weeks in UC income. DHS converts biweekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 at 6. Claimant's UC income was properly found to be \$1556.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 at 1. For groups without a senior (over 60 years old), disabled or

disabled veteran (SDV) member, DHS considers the following expenses: child care and excess shelter (housing and utilities) up to a capped amount and court ordered child support and arrearages paid to non-household members. For groups containing SDV members, DHS also considers the medical expenses for the SDV group member(s) and the full excess shelter expense.

Claimant contended that he was a disabled individual. DHS defines a disabled individual (see BEM 550 at 1) as a person who receives one of the following:

- federal, state or local public disability retirement pension and the disability is considered permanent under the Social Security Act;
- Medicaid program which requires a disability determination by MRT or Social Security Administration;
- Breast and Cervical Cancer Prevention and Treatment Program Medicaid cases are not considered disabled; or
- Railroad Retirement and is eligible for Medicare or meets the Social Security disability criteria.

It was not disputed that Claimant did not receive any of the above benefits. Accordingly, DHS properly found Claimant to be a non-disabled individual.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from Claimant's monthly countable income. Claimant did not claim to have any of these expenses.

Claimant's FAP benefit group received a standard deduction of \$141. RFT 255 at 1. The standard deduction is given to all FAP benefit groups though the amount varies based on the benefit group size. The standard deduction is also subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$1415.

It was not disputed that as of the initial DHS determination that Claimant failed to verify any housing obligation. Claimant subsequently verified a \$605.07 obligation which was factored into Claimant's FAP benefit issuance effective 6/2011. It was unclear whether Claimant properly requested a hearing to dispute the FAP benefit determination beginning 6/2011; however, for purposes of this decision, Claimant's housing obligation will be considered.

DHS gives a flat utility standard to all clients. BPB 2010-008. The utility standard of \$588 (see RFT 255) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$588 amount. The total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit (\$588); this amount is found to be \$1193 (dropping cents).

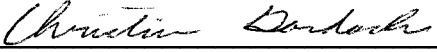
DHS only credits FAP benefit groups with what DHS calls an "excess shelter" expense. This expense is calculated by taking Claimant's total shelter obligation and subtracting half of Claimant's adjusted gross income. Claimant's excess shelter amount is found to be \$486 (rounding up). Claimant's excess shelter is capped because his FAP group does not contain an SDV member. The cap amount is \$458. RFT 255 at 1.

The FAP benefit group's net income is determined by taking the group's adjusted gross income (\$1415) and subtracting the allowable excess shelter expense (\$458). The FAP benefit group net income is found to be \$957. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's FAP benefit amount is found to be \$16, the same amount calculated by DHS.

It should be noted that DHS properly did not factor Claimant's housing obligation in effective 2/2011 because Claimant had not yet verified the obligation. However, the above analysis shows that whether the obligation was factored, or not, the result is a FAP benefit issuance of \$16/month. It is found that DHS properly determined Claimant's FAP benefit eligibility for 2/2011 and 6/2011 as \$16/month.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FAP benefit issuance for 2/2011 and 6/2011 as \$16. The actions taken by DHS are AFFIRMED.

  
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Christian Gardocki  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: July 12, 2011

Date Mailed: July 12, 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.

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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.

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