

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201137080
Issue No.: 3003; 3014
Case No.: [REDACTED]
Hearing Date: August 3, 2011
Macomb County DHS (20)

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 August 3, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUES

1. Whether DHS properly removed a Food Assistance Program (FAP) benefit member in determining Claimant's benefits for 6/2011.
2. Whether DHS properly calculated Claimant's countable child support in determining Claimant's FAP benefits effective 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. Claimant was an ongoing FAP benefit recipient.
2. Claimant was part of a FAP benefit group that included four persons, including [REDACTED], a person over which Claimant had guardianship.
3. Effective FAP benefit month 6/2011, DHS removed [REDACTED] from Claimant's FAP benefit group for unspecified reasons.
4. Claimant was the recipient of child support income.

5. Part of the payer's child support payments to Claimant were retained by the State of Michigan.
6. On an unspecified date, DHS determined Claimant's FAP benefits for 6/2011 by including State of Michigan retained child support as income for Claimant.
7. The DHS determination of FAP benefits for 6/2011 also excluded [REDACTED] as a FAP benefit group member.
8. On 5/31/11, Claimant requested a hearing to dispute the FAP benefit determination for 6/2011.

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 5/2011, the estimated 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 alleged two specific errors in the FAP benefit determination for 6/2011. The first allegation was that DHS improperly excluded a group member.

It was not disputed that Claimant reported to DHS a household of four persons. This was verified by Claimant's Semi-Annual Contact Report (Exhibit 1) which listed four persons as household members. It was also not disputed that Claimant, prior to 6/2011, received FAP benefits based on a four person household. DHS removed one of the household members from Claimant's group effective 6/2011.

Claimant credibly testified that the group member in question, [REDACTED], was an ongoing household member. The only thing that changed concerning [REDACTED] was that Claimant's guardianship ended upon [REDACTED] 18th birthday which apparently occurred sometime around 6/2011. However, Claimant insisted that [REDACTED] remained in the household. DHS

did not attempt to contend that such a change would have affected the FAP benefit group composition.

When DHS was asked what caused the removal of a household member, all DHS could cite was that it was done by a DHS worker at a different office. DHS had zero explanation justifying the removal. Based on the evidence, it is found that DHS erred in determining Claimant's FAP benefits on a group size of three persons effective 6/2011.

The second issue disputed by Claimant concerned child support income. No budgets were submitted, but Claimant contended that DHS counted child support income that Claimant did not receive.

Certified support means court-ordered support payments sent to the DHS by the Michigan State Disbursement Unit. BEM 503 at 5. For FAP benefits, Bridges excludes collections retained by DHS (certified support) and court-ordered support payments the group receives after the child support certification effective date. *Id.* Court-ordered direct support means child support payments an individual receives directly from the absent parent or the MiSDU. *Id.* at 7. Generally, Bridges counts the total amount as unearned income. *Id.*

A child support payment history was presented as Exhibit 2. The child support payment report listed income under two different headings, "Child Support Certified State Arrears" and "Child Support Direct (Court-ordered)". Claimant conceded that DHS properly counted the court-ordered income. Claimant contended she never received the certified child support income and that DHS erred by counting it as income for her in determining her 6/2011 FAP benefits. DHS did not dispute that the certified support was counted. Based on the above policy, DHS erred by including certified child support in the FAP benefit determination.

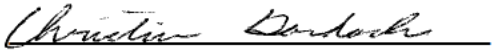
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP benefit eligibility for 6/2011. It is ordered that DHS:

- (1) redetermine Claimant's FAP benefit eligibility effective 6/2011 as a four person benefit group that includes Nikki Lovell as a group member;
- (2) redetermine Claimant's FAP benefit eligibility effective 6/2011 by excluding certified child support as income;
- (3) supplement Claimant for any FAP benefits not received as a result of the DHS errors.

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The actions taken by DHS are REVERSED.


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

Date Signed: August 5, 2011

Date Mailed: August 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 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 of the rehearing decision.

CG/hw

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