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



Reg. No. Issue No. Case No. Hearing Date: 201137084 3015

July 7, 2011 Oakland County DHS (04)

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 7, 2011 fr om D etroit, Michigan. The Claimant appeared and testified. On behalf of Department of Human Services (DHS), Specialist, appeared and testified.

<u>ISSUE</u>

Whether DHS properly determined Claimant to be inel igible for Food Assistance Program (FAP) benefits based on excess income.

FINDINGS OF FACT

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

- 1. On 4/29/11, Claimant applied for FAP benefits.
- 2. Claimant was part of a FAP benefit group of three persons that included two children from Claimant's deceased sister.
- 3. On an unspecified date, DHS determined Claimant to have excess income for FAP benefits.
- 4. Claimant accepted the DHS decision as technically correct but believed her circumstances justified an entitlement of FAP benefits.
- 5. On 5/20/11, Claimant requested a hearing to dis pute the DHS determination denying Claimant FAP benefits.

CONCLUSIONS OF LAW

The Food Assistanc e Program (formerly known as the Food Stamp Program) is established by the Food Stam p 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 regulat ions are found in the Bridges Administrative Manual (BAM), the Bridges Eligibilit y 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: <u>http://www.mfia.state.mi.us/olmweb/ex/html/</u>.

The present case involved a denial of FA P benefits based on excess incom e. Prior to the hearing, DHS explained the budget proce ss to Claimant. Claimant ac cepted the DHS budget as correct but contended that her circumstances justified some sort of deviation from the budget.

The under signed has the authority to examine DHS actions as correct or incorrect based on DHS regulations. The undersigned has no special authority to subjectively issue benefits. Claim ant wanted to make an emotional argument as a basis for an entitlement to FAP benefit s. The undersigned c an exam ine Claimant's specific arguments as they relate to DHS regulations and the FAP budget process.

Claimant stated that she has undertaken the responsibility of raising the children of her deceased sister. The only relevance of Clai mant's argument is whether DHS factored the children into the group composition in determining Claimant's FAP benefit eligibility. It was not disputed that the DHS determination factored a group size of three persons.

Claimant also contended that s ince she ha s assumed custody of the children, her utilities have increased. The utility st andard of \$588 (see RFT 255) enco mpasses all utilities (water, gas, electric, telephone) a nd is unchanged even if a clien t's monthly utility expenses exceed the \$588 amount. It was not disputed that the FAP elig ibility determination factored the \$588 credit.

If Claimant's argument was that she deserve s some benefit for taking care of her sister's children, it should be noted that Claimant is receiving F amily Independence Program (FIP) benefits for the children for some unspecified amount. Further, her sister's children are also receiving Medicaid from DHS.

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Claimant conceded that her income exceeded the income limit for FAP benefit eligibility. For purpos es of FAP benefit eligibility, Clai mant failed to present any argument that indicated any error by DHS in denying Claimant 's applic ation. It is found that DH S properly denied Claimant FAP benefits due to excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon t he above findings of fact and conclusion s of law, finds that DHS properly denied Claimant's FAP benefit application dated 4/29/11 due to excess income. The actions taken by DHS are AFFIRMED.

Christian Bardoch

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 or der a rehearing or reconsideration on either its own motion or at t he request of a party wit hin 30 days of the ma iling date of this Decision and Order. Administrative Hear ings will not orde r a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 ti mely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

CG/cl

