

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

IN THE MATTER OF:



Reg. No.: 201138742
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: July 20, 2011
Wayne County DHS (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 20, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly determined Claimant's Food Assistance Program (FAP) benefit eligibility effective 6/2011 as \$376/month.

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 household size, and FAP benefit group of three persons.
3. Claimant received the following gross employment income on the following dates: \$288 on 4/25/11, \$319.50 on 5/1/11, \$310.50 on 5/8/11 and \$360 on 5/15/11 (see Exhibit 2).
4. Claimant had a housing obligation of \$450/month.
5. On an unspecified date, DHS determined Claimant was eligible for \$376/month in FAP benefits (see Exhibit 1) effective 6/2011.

6. On 6/15/11, Claimant requested a hearing to dispute the \$376 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 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 disputed a \$376/month FAP benefit issuance for 6/2011. BEM 556 outlines the proper procedures for calculating FAP benefits.

For non-child support income, DHS is to budget income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505 at 4. DHS is to count the gross employment income amount. BEM 501 at 5.

DHS chose to use Claimant's employment earnings from 4/25/11-5/15/11. Claimant contended that DHS could have used a more favorable (to Claimant) income period to prospect Claimant's income. The undersigned finds no fault with DHS using the most current employment information at the time DHS determined Claimant's 6/2011 FAP benefit eligibility. The undersigned might have been more persuaded by Claimant's argument had Claimant reported the income and advised that his income fluctuated. In the present case, Claimant did not report the income at all, let alone that his income fluctuated.

DHS converts weekly non-child support income into a 30 day period by multiplying the income by 4.3. BEM 505 at 6. The average of the budgeted employment income checks is \$319.50. Multiplying the average check by 4.3 creates a monthly budgetable income of \$1373 (dropping cents).

DHS only counts 80% of a FAP member's monthly gross employment income in determining FAP benefits. 80% of Claimant's employment income is \$1098 (dropping cents).

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's FAP benefit group is not an SDV group.

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

Claimant's three-person FAP benefit group received a standard deduction of \$141. RFT 255. 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 \$957.

It was not disputed that Claimant is responsible for a \$450/month shelter obligation. 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 \$1038.

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 \$560 (rounding up). However, because Claimant's FAP benefit group does not have an SDV member, Claimant's excess shelter amount is capped; the current cap amount is \$458. RFT 255 at 1.

Claimant's net income is determined by taking Claimant's adjusted gross income (\$957) and subtracting the allowable excess shelter expense (\$458). Claimant's net income is found to be \$499. 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 \$376, the same amount calculated by DHS. It is found that DHS properly calculated Claimant's FAP benefits for the benefit month of 6/2011.

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 as \$376/month effective 6/2011. The actions taken by DHS are AFFIRMED.

Christian Gardocki

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

Date Signed: July 22, 2011

Date Mailed: July 22, 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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