

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.: 2011-3875
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 1, 2010
DHS County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on December 1, 2010. Claimant appeared and testified. [REDACTED], appeared and testified for the Department of Human Services (DHS). [REDACTED] acted as interpreter during the hearing.

ISSUE

Whether DHS properly calculated Claimant's Food Assistance Program (FAP) allotment?

FINDINGS OF FACT

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

1. On August 1, 2009, Claimant began to receive FAP benefits of \$401 per month based on a shelter expense (rent) of \$700 per month.
2. From July 1-September 30, 2010, one-half of Claimant's adjusted gross income was \$835, thereby allowing Claimant an Excess Shelter Deduction of \$420.
3. On August 27, 2010, Claimant reported a reduction of his shelter expense to \$540 per month in mortgage payments.

4. As of October 1, 2010, one-half of Claimant's adjusted gross income was \$1,175, and as this amount was more than the total shelter amount of \$1,128, Claimant received no Excess Shelter Deduction as of that date.
5. Claimant presented paystubs to DHS for all three wage earners in the family group, but the paystubs did not reflect a decrease in income.
6. On October 1, 2010, Claimant's FAP benefits were reduced from \$418 to \$88 per month.
7. On October 15, 2010, Claimant requested a hearing with DHS and the State Office of Administrative Hearings and Rules.

CONCLUSIONS OF LAW

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations in Title 7 of the Code of Federal Regulations. DHS administers the FAP program pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules 400.3001-400.3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The manuals are the policies and procedures that DHS officially created for its own use. While the manuals are not laws created by Congress or the Michigan State Legislature, they constitute the legal authority which DHS must follow. It is to the manuals that I look now, in order to see what policy applies in this case. After setting forth what the applicable policy is, I will examine whether it was in fact followed in this case.

BEM 556, "Computing the Food Assistance Budget," is the appropriate manual section to use in this case. This manual Item presents all of the steps to be taken in making the mathematical calculations for FAP. With regard to shelter, the formula in BEM 556, pp. 4-5, is that if one-half of the Claimant's adjusted gross income is less than the Claimant's shelter expense, DHS will award an "excess shelter deduction" for the extra expense up to a maximum amount. That maximum amount is set forth in RFT 255, "Food Assistance Standards," and the maximum amount for shelter is \$459. BEM 556, pp. 4-5, RFT 255.

Accordingly, In the July-September 2010 period, one-half of Claimant's adjusted gross income is \$835, and his shelter cost is \$1,255. This shelter number, \$1,255, is \$420 more than one-half his \$835 adjusted gross income. Therefore, for those three months, DHS awarded Claimant an excess shelter deduction.

The amount of the excess shelter deduction is the amount DHS calculated the excess expense to be, which is \$420, the difference between one-half of Claimant's adjusted gross income and his total shelter expense of \$1,255. If Claimant's excess shelter amount had turned out to be \$459 or more, then \$459 would be the most he could receive for the months of July-September 2010. *Id.*

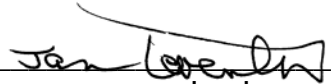
For the month of October 2010, however, Claimant's situation changed. First, Claimant's adjusted gross income increased, so that one-half of his adjusted gross income went from \$835 to \$1,175. Secondly, in the same month, Claimant's housing expense decreased from \$1,255 to \$1,128. So, for October, the numbers go in the opposite direction, and one-half of Claimant's adjusted gross income *is more than his shelter expense.*

Because the October situation changed from the earlier situation in July-September, Claimant is no longer entitled to the excess shelter deduction in October. Accordingly, as he does not receive the \$420 excess shelter deduction, his net income turns out to be higher than before, and he receives less FAP benefits as a result.

I have reviewed all of the evidence and testimony in this case, and I find and conclude that DHS' calculation of Claimant's FAP grant is correct and is AFFIRMED. DHS need take no further action in this matter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, AFFIRMS the calculation of the Claimant's FAP grant in this case. DHS need take no further action in this matter.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 2, 2010

2011-3875/JL

Date Mailed: December 2, 2010

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 date of the rehearing decision.

JL/pf

cc:

