

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201138816
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: July 21, 2011
Wayne County DHS (57)

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 21, 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 eligibility for Food Assistance Program (FAP) benefit eligibility effective 4/8/11.

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 4/8/11, Claimant applied for FAP benefits.
2. Claimant received the following child support amounts in the following months on behalf of her two children (see Exhibit 4): \$110.50 and \$364.75 for 2/2011, \$108.70 and \$358.79 for 3/2011 and \$151.19 and \$499.03 for 4/2011.
3. Claimant received \$528 every two weeks in gross unemployment compensation (UC) income.
4. In 5/2011, Claimant submitted an obligation for property insurance of \$194.25/month.

5. On an unspecified date, DHS determined Claimant's FAP benefits as \$183/month (pro-rated as \$140 for 4/2011), in part, because of a calculated unearned income amount of \$1742/month.
6. DHS determined Claimant's 6/2011 FAP benefits, in part, based on a \$0 property insurance obligation because Claimant allegedly failed to verify the specific time period for which the \$194.25 property insurance payment covered.
7. On 6/14/11, Claimant requested a hearing disputing the DHS determined FAP benefit issuance beginning 4/2011.

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 4/2011, 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 \$183/month FAP benefit issuance (pro-rated for 4/2011 as \$140). BEM 556 outlines the proper procedures for calculating FAP benefits.

Claimant's primary dispute concerned a calculation of income by DHS. DHS determined Claimant's FAP benefit group's unearned (non-employment) income as \$1742 (see Exhibit 1).

It was not disputed that Claimant received gross biweekly UC benefits of \$528/2 weeks. DHS is to count the gross amount of UC in calculating FAP benefits. BEM 503 at 24. DHS converts biweekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 at 6. Multiplying Claimant's countable biweekly gross UC income by 2.15 results in a monthly countable income amount of \$1135.

Claimant specifically objected to the DHS calculation concerning child support income. Claimant submitted a child support document (Exhibit 5) which listed Claimant's child support payment history as a payee. The undersigned found no difference between

Claimant's document and the verification (Exhibit 4) on which DHS relied. DHS relied on a child support payment history retrieved by their database, Bridges, in a data exchange with the Michigan Child Support Enforcement System. The undersigned finds the DHS verification to be an accurate representative of Claimant's child support payee history.

To prospect child support income, DHS is to use the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505 at 3. In the present case, DHS used the period of 2/2011-4/2011. There was no dispute that this was an acceptable reflection of Claimant's child support income.

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.*

The DHS child support verification categorized the child support payments as "Child Support Certified Medical" and "Child Support Direct (Court-ordered)". DHS included both types of child support as income for Claimant's children. As DHS regulations require the exclusion of certified support from the DHS budget, DHS erred in counting the certified support as income for Claimant's children.

Adding Claimant's direct child support received over 2/2011-4/2011 results in a total amount of \$1592.96. The average monthly income for the three month period would be \$530 (dropping cents).

Adding Claimant's UC (\$1135) and child support income (\$530) results in a total income of \$1665. DHS determined a total income of \$1742 (see Exhibit 1). It is found that DHS erred in determining Claimant's FAP benefit eligibility by miscalculating Claimant's income.

Claimant did not raise any other problems in her 4/2011 FAP benefit issuance but thought she should have been entitled to a credit for her property insurance effective 6/2011 based on a verification submitted to DHS in 5/2011. DHS denied the credit for the obligation because Claimant's verification verified an obligation for property insurance, but debatably, did not verify for what period the due amount would cover. Shelter expenses (such as property insurance) must be verified. BEM 554 at 11.

After examining the verification submitted by Claimant (Exhibit 6), the undersigned is slightly sympathetic to the DHS failure to budget a credit for property insurance. Generally, property insurance premiums are given to homeowners in annual amounts,

not monthly amounts. DHS stated that Claimant's \$194.25 obligation was not identified as a monthly obligation.

Claimant's verification contained the words "monthly account" toward the top of Claimant's property insurance document. Thus, the undersigned is inclined to accept the document as verification of a monthly obligation. It is found that DHS erred in denying Claimant's credit for property insurance effective 6/2011.

It should be noted that the failure to budget Claimant's property insurance may not result in a supplement of FAP benefits for Claimant. As discussed during the hearing, Claimant already received the maximum shelter credit allowed for 6/2011, and an increase in shelter expenses cannot increase the capped amount.

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 effective 4/2011. It is ordered that DHS;

- (1) redetermine Claimant's unearned income effective 4/2011 and ongoing months by factoring Claimant's direct child support payments from 2/2011-4/2011 but not certified support payments;
- (2) effective 6/2011, budget a \$194.25/month property insurance obligation; and
- (3) supplement Claimant for any FAP benefits not received as a result of the DHS errors.

The actions taken by DHS are REVERSED.



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.

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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 of the rehearing decision.

CG/hw

cc:

