

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-42587
Issue No. 3003
Case No. [REDACTED]
Hearing Date: August 24, 2011
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Wednesday, August 24, 2011. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department of Human Services ("Department").

ISSUE

Whether the Department properly denied the Claimant's application for food assistance ("FAP") benefits?

FINDINGS OF FACT

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

1. The Claimant submitted an application for public assistance seeking FAP benefits on June 2, 2011.
2. The Claimant's group size is 4.
3. The Claimant receives income from employment working 40 hours a week, earning \$12.38 an hour.
4. The Claimant is responsible for a monthly mortgage payment and is required to pay for all utilities.

5. On June 3, 2011, the Department denied the FAP application due to excess income based on a group size of one. (Exhibit 1, p. 11)
6. The Department notified the Claimant of the Determination.
7. On June 13, 2011, the Department received the Claimant's timely written request for hearing. (Exhibit 2)

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. The Department of Human Services, formerly known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10 *et seq.*, and the Michigan Administrative Code, Rules 400.3001-3015. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("RFT").

Group composition is the determination of which persons living together are included in the FAP program group. BEM 212. Spouses who are legally married and live together must be in the same group. BEM 212. Shelter expense is an allowable expense and includes rent payments. BEM 554. In determining a FAP allotment, a Heat and Utility Standard is used whenever a FAP group contributes to the heat expense separate from rent, mortgage, or condominium/maintenance payments. BEM 554.

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505. Prospective budgeting is the best estimate of the client's future income for future benefits. BEM 505. All income is converted to a monthly amount. BEM 505. A standard monthly amount must be determined for each income source used in the budget. BEM 505. Weekly benefit amounts are converted to a monthly amount by multiplying the weekly amount by 4.3. BEM 505. Bi-weekly amounts are converted by multiplying the amount by 2.15. BEM 505.

In this case, the Department processed the FAP budget and included the Claimant's gross earnings from employment. The Department used the incorrect group size. Specifically, the Department input a group size of one as opposed to four. In addition, the Claimant testified that he pays \$462/month for his mortgage and is responsible for utilities. A shelter expense and the heat/utility standard were not considered.

Ultimately, based on the Claimant's earnings, group size of one, and no expenses, the Department found the Claimant not eligible for FAP benefits due to excess income. The Department acknowledged the error in calculating benefits due to the group size. Ultimately, the Department must recalculate the Claimant's FAP benefits and shall include the Claimant's shelter expense and the heat/utility standard provided verification is submitted. In light of the foregoing, the Department's denial is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds the Department's FAP denial is not upheld.

Accordingly, it is ORDERED:

1. The Department's FAP calculation based on the June 2, 2011 application is REVERSED.
2. The Department shall re-open the June 2, 2011 application and initiate the recalculation of FAP benefits to include the correct group size and applicable expenses in accordance with Department policy.
3. The Department shall notify the Claimant of the determination in accordance with Department policy.
4. The Department shall supplement for lost benefits (if any) that the Claimant was entitled to receive if otherwise eligible and qualified.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: August 29, 2011

Date Mailed: August 29, 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

2011-42587/CMM

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.

CMM/cl

cc:

