

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

IN THE MATTER OF:



Registration No: 2011-42949  
Issue No: 3003; 3015  
Case No: [REDACTED]  
Hearing Date: August 9, 2011  
Tuscola County DHS

Administrative Law Judge: Mark A. Meyer

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge in accordance with MCL 400.9, MCL 400.37 and 1999 AC, R 400.903. Claimant requested a hearing on June 15, 2011, and, after due notice, one was held on July 21, 2011. Claimant appeared at hearing and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

**ISSUE**

In dispute was whether the Department properly denied Claimant's applications for Food Assistance Program (FAP) benefits.

**FINDINGS OF FACT**

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

1. Claimant applied for FAP benefits on June 16, 2011. Her application included herself, her fiancée, and two minor children. (Department's Exhibit 1, pp. 33-52; Department's hearing summary, dated July 1, 2011.)
2. Based on information obtained by the Department, one of the minor children was a member of a group receiving assistance benefits in the State of Indiana. This child was therefore not counted as a member of Claimant's FAP group size. (Department's Exhibit 1, pp. 29, 31, 37; Department's hearing summary.)
3. Based on income information obtained by the Department, it was determined that Claimant was not entitled to FAP benefits due to excess income. Claimant was notified of this determination on June 17, 2011. (Department's Exhibit 1, pp. 13-16, 21.)

4. Claimant filed a request for hearing, contesting the Department's denial of her applications for FAP benefits. (Claimant's hearing request, dated June 28, 2011.)
5. Claimant again applied for FAP benefits on June 29, 2011. This application included herself, her fiancée, and two minor children.<sup>1</sup> (Department's hearing summary, dated July 1, 2011.)
6. Again, Claimant's application for FAP benefits was denied due to excess income. She was notified of this action on July 1, 2011. (Department's Exhibit 1, pp. 1-4.)
7. There was no evidence presented indicating that Claimant filed a request for hearing to contest the Department's denial of her second FAP benefit application.

### **CONCLUSIONS OF LAW**

The hearing and appeals process for applicants and recipients of public assistance in Michigan is governed by 1999 AC, R 400.901 through 400.951, in accordance with federal law. An opportunity for hearing must be granted to an applicant who requests a hearing because his claim for assistance is denied or not acted on with reasonable promptness, and to any recipient who is aggrieved by Department action resulting in suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1). An applicant or recipient holds the right to contest an agency decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department must provide an administrative hearing to review the decision and determine its appropriateness. Bridges Administrative Manual (BAM) 600, p. 1.

Here, using income information provided through verification, the Department computed Claimant's FAP budget determining that the group had excess income and was therefore ineligible to receive benefits. From this determination, Claimant filed a request for hearing. She then submitted a second application for FAP benefits that was also denied for the same reasons. There was no evidence that Claimant filed a request for hearing to contest the agency's second denial.

FAP – formerly known as the Food Stamp Program – was established by the Food Stamp Act of 1977, 7 USC 2011, *et seq.*, as amended, and is implemented through federal regulations found in 7 CFR 273.1 *et seq.* The Department administers the FAP under MCL 400.10, *et seq.*, and Rules 400.3001 through 400.3015. Agency policies pertaining to the FAP are found in the BAM, Bridges Eligibility Manual (BEM), and

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<sup>1</sup> It is noted that at some point prior to the hearing in this matter, Claimant and her fiancée were married.

Reference Tables Manual (RFT). The goal of the FAP is to ensure sound nutrition among children and adults. BEM 230B, p.1.

In completing a FAP budget to determine eligibility or benefit level, the entire amount of countable and available income, both earned and unearned, is used. BEM 505, p 2; BEM 550, p. 1. Countable income is defined as "income remaining after applying [applicable agency policy]." BEM 500, p. 3; BEM 505, p. 1. All income that is not specifically excluded is deemed countable income. BEM 500, p. 3. Available income is that amount actually received or reasonably anticipated. BEM 505, p. 1. Earned income means income received from another person or organization, or from self-employment, for duties that were performed for compensation or profit. BEM 500, p. 3. Wages are considered earned income for FAP benefits budgeting purposes. BEM 501, p. 5. Unearned income is all income that is not earned (e.g., income received from the rental of real property). BEM 500, p. 3.

The Department determines FAP eligibility and benefit amount using: (1) actual income (income that was already received), and (2) prospective income (income amounts not received but expected). BEM 505, p. 1.

For FAP budgeting purposes, gross countable earned income is reduced by a twenty percent earned income deduction (if earned income is present). Any unearned income is added to the remaining amount, and that total is then reduced by a standard deduction determined by FAP group size. BEM 550, p. 1; BEM 556, pp. 2-3; RFT 255. The result of these reductions is the adjusted gross income.

In the present matter, the Department used the amount of [REDACTED] as earned income (from Claimant's now-husband's employment) for FAP budgeting purposes. Based on the evidence presented, however, use of this amount was in error – it was income earned by the husband in 2010. (See Department's Exhibit D-1, p. 21.) The amount of earned income that should have been used by the agency was [REDACTED] – based on a standard monthly amount determined from income received by the husband in June 2011. (See Department's Exhibit 1, p. 23.) Using this amount, a twenty percent earned income deduction [REDACTED] is subtracted, for a net earned income of [REDACTED]. The record also established that Claimant received unearned income from the rental of property in the amount of [REDACTED] per month. Thus, Claimant's total income after the earned income adjustment was [REDACTED]. From that amount, a standard deduction for a FAP group size of three ([REDACTED]) is subtracted, leaving an adjusted gross income of [REDACTED].

An excess shelter deduction, if any, is then subtracted from the adjusted gross income. To determine the excess shelter deduction, the client's actual housing expenses (e.g., rent, mortgage, taxes, property insurance) are added to a heat/utility standard – currently [REDACTED]. (See RFT 255.) From this total amount is subtracted the product of the client's adjusted gross income multiplied by fifty percent. The difference results in the adjusted excess shelter amount unless the group does not contain a senior,

disabled, or veteran (SDV) eligible member. See BEM 556, p. 4. For a non-SDV group, it is necessary to use the excess shelter maximum found in RFT 255.

Here, Claimant reported shelter expenses totaling [REDACTED]<sup>2</sup>. The Department accepted this amount as reported. The [REDACTED] heating/utility standard also applied in determining a total shelter expense of [REDACTED]. Fifty percent of Claimant's adjusted gross income was [REDACTED]. Because fifty percent of Claimant's adjusted gross income was more than her total shelter expense, there was no excess shelter amount to apply in this matter. Therefore, Claimant's net monthly income was [REDACTED]<sup>3</sup>.

Federal regulations found at 7 CFR 273.10 provide standards for net income and corresponding amounts of household FAP benefits. In accordance with these regulations, the Department prepared income and issuance tables that are found at RFT 250 and 260. According to RFT 260, a client with a group size of three and a determined monthly net income of [REDACTED] is not entitled to FAP benefits. RFT 260, p. 18. The Department properly denied Claimant's June 16, 2011, application.

Regarding the denial of Claimant's second application for FAP benefits, made on June 29, 2011 it did not appear that she filed a request for hearing to contest the Department's action. As such, she was procedurally not entitled to a hearing on the matter. See R 400.903. That being said, even if jurisdiction existed regarding the dispute, sufficient evidence established that Claimant was still not entitled to FAP benefits.

In reviewing the second application, the Department again used the amount of [REDACTED] as earned income for FAP budgeting purposes. As discussed above, use of this amount was in error – it was income earned by Claimant's now-husband in 2010. (See Department's Exhibit D-1, p. 21.) As above, the proper amount of earned income that should have been used by the agency was [REDACTED]. (See Department's Exhibit 1, p. 23.) Using this amount, a twenty percent earned income deduction ([REDACTED]) is subtracted, for a net earned income of [REDACTED]. The record also established that Claimant received unearned income from the rental of property in the amount of [REDACTED] per month. Thus, Claimant's total income after the earned income adjustment was [REDACTED]. From that amount, a standard deduction for a FAP group of three ([REDACTED]) is subtracted, leaving an adjusted gross income of [REDACTED].

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<sup>2</sup> At hearing, Claimant asserted that her monthly mortgage payment was not taken into consideration by the Department in determining her FAP benefit budget. Based on the evidence presented, this assertion was without merit. (See Department's Exhibits D-1, pp. 18, 48.

<sup>3</sup> These calculations were based on the rounding up and rounding down permitted under BEM 556.

It appeared that in her second application, Claimant reported shelter expenses totaling [REDACTED].<sup>4</sup> This amount was accepted by the Department. The [REDACTED] heating/utility standard also applied in determining a total shelter expense of [REDACTED] + [REDACTED]). Fifty percent of Claimant's adjusted gross income was [REDACTED]. Because fifty percent of Claimant's adjusted gross income was more than her total shelter expense, there was no excess shelter amount to apply in this matter. Therefore, Claimant's net monthly income, for purposes of her second FAP application, was again [REDACTED]).<sup>5</sup> Again, Claimant was not entitled to FAP benefits. See RFT 260, p. 18. The Department properly denied her June 29, 2011, application.

Finally, a person generally cannot receive FAP benefits in more than one state for any month. BEM 222, p. 2. Therefore, because Claimant admitted at hearing that one of the two minor children living in her home was receiving assistance benefits from the State of Indiana during the time period in issue, that child could not be counted as a member of Claimant's FAP group size. The agency appropriately computed Claimant's FAP budgets based on a group size of three.

#### **DECISION AND ORDER**

Based on the above findings of fact and conclusions of law, the Administrative Law Judge decides that the Department properly denied both Claimant's June 16, 2011, and June 29, 2011, FAP applications.

The Department's action is AFFIRMED.

It is SO ORDERED.

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Mark A. Meyer  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

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<sup>4</sup> See fn 2.

<sup>5</sup> See fn 3.

Date Signed: \_\_\_\_\_

Date Mailed: \_\_\_\_\_

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.

Claimant may appeal this Decision and Order to the Circuit Court for the county in which he/she resides within 30 days of the mailing of this Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

MAM/sc

cc: Katrina Wood Skelton  
Tuscola County DHS  
R. Rodriquez  
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Administrative Hearings