

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201143975
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: August 17, 2011
Wayne County DHS (18)

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 August 17, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS) [REDACTED] Manager, and [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefits effective 7/2011 due to excess income.

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's FAP benefits were scheduled for redetermination for an effective date of 7/2011.
3. Claimant was part of a FAP benefit group of 3 persons.
4. Claimant received gross biweekly employment income of \$587.35 on 5/6/11 and \$407.90.
5. Claimant received gross unemployment compensation (UC) income of \$554 on 5/9/11 and 5/23/11.

6. Claimant's two children each received the following child support income: \$243.30 in 3/2011, \$321.80 in 4/2011 and \$243.30 in 5/2011 (see Exhibit 3).
7. Claimant's housing obligation was \$800/month.
8. On 6/18/11, DHS mailed Claimant a Notice of Case Action (Exhibit 1) informing Claimant that FAP benefits would end effective 7/2011 due to excess income.
9. On 7/14/11, Claimant requested a hearing disputing the termination of FAP benefits.

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 6/2011, the 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/>.

Claimant requested a hearing to dispute a FAP benefit termination effective 7/2011. BEM 556 outlines the proper procedures for calculating FAP benefits.

For FAP benefits, DHS is to use actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. BEM 505 at 2. For non-child support income, DHS is to use past income to prospect income for the future unless changes are expected. *Id.* at 4. DHS is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. *Id.*

Claimant testified that her employment income was reduced in late 7/2011 due to a reduction in employment hours. Claimant contended that DHS failed to consider the employment income reduction. Claimant's contention is relevant to a subsequent application for FAP benefits, however, as of the date DHS redetermined Claimant's FAP benefits (6/18/11), DHS had no reason to know that Claimant's employment income

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would be reduced one month later. Thus, DHS properly prospected Claimant's employment income by budgeting the past 30 days of verified income.

DHS converts biweekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 at 6. DHS is to count the gross employment income amount. BEM 501 at 5. Averaging Claimant's gross biweekly employment income results in an average biweekly income of \$496.62 (rounding down). Multiplying the average income by 2.15 results in a monthly employment income of \$1069 (rounding down).

DHS only counts 80% of a FAP member's timely reported monthly gross employment income in determining FAP benefits. Applying the 20% deduction to Claimant's employment income creates a countable monthly employment income of \$855 (dropping cents).

It was not disputed that Claimant received biweekly UC benefits of \$554/2 weeks. Generally, DHS is to count the gross amount of UC in calculating FAP benefits. BEM 503 at 24. Multiplying Claimant's countable biweekly UC income by 2.15 results in a monthly countable UC income amount of \$1191 (dropping cents).

Claimant contended that her child support income was less than what DHS budgeted. Claimant offered to submit a bank statement to verify the amount of child support that she received from 3/2011-5/2011. The undersigned declined Claimant's offer because a bank statement is not necessarily an accurate reflection of child support income. A bank statement may only reflect a partial amount of child support income, or the net amount of child support income. DHS regulations do not list a bank statement as an acceptable verification of child support (see BEM 503 at 30).

DHS verified Claimant's child support income based on a child support inquiry in a database exchange with Michigan State Disbursement Unit. The undersigned has found this to be a very reliable source of verifying child support income. However, despite relying on a proper source, DHS slightly miscalculated 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.*

DHS budgeted child support that was listed on their report as "Child Support Certified Medical". Based on the above policy, the undersigned finds this income to have been improperly counted as budgetable income.

Court-ordered direct support means child support payments an individual receives directly from the absent parent or the MiSDU. *Id* at 7. For all programs, Bridges counts the total amount as unearned income, except any portion that is court-ordered or legally obligated directly to a creditor or service provider: *Id*. The undersigned finds no issue with DHS counting child support listed as “Child Support Direct (Court-ordered)”.

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. The average monthly child support received by Claimant’s two children was \$269.46. Adding Claimant’s countable employment income (the direct child support), UC income and child support income results in a total monthly income of \$2315 (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. It was not disputed that Claimant’s FAP benefit group had no SDV members.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from Claimant’s monthly countable income. Claimant did not claim to have any of these expenses.

Claimant’s 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 \$2174.

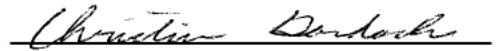
It was not disputed that Claimant had a housing obligation of \$800/month. DHS gives a flat utility standard to all clients. BPB 2010-008. The utility standard of \$588 (see RFT 255) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client’s monthly utility expenses 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 \$1388.

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 \$301.

The FAP benefit group's net income is determined by taking the group's adjusted gross income (\$2174) and subtracting the allowable excess shelter expense (\$301). The FAP benefit group net income is found to be \$1873. 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 \$0, the same amount calculated by DHS (see Exhibit 2). It is found that DHS properly terminated Claimant's FAP benefits eligibility effective 7/2011 due to excess income. As stated during the hearing, Claimant is always free to reapply for FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FAP benefits effective 7/2011. The actions taken by DHS are AFFIRMED.


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

Date Signed: August 18, 2011

Date Mailed: August 18, 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.

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