

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201145541  
Issue No: 3002  
Case No: [REDACTED]  
Hearing Date: August 25, 2011  
Washtenaw County DHS

**ADMINISTRATIVE LAW JUDGE:** Christopher S. Saunders

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on August 25, 2011. Claimant personally appeared and provided testimony.

**ISSUE**

Did the department properly budget the claimant's Food Assistance Program (FAP) benefits?

**FINDINGS OF FACT**

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

1. The claimant has been a recipient of FAP benefits at all times pertinent to this hearing.
2. In June of 2011, the claimant completed a re-determination as requested by the department.
3. Based upon the claimant's income provided at the re-determination, the department ran a budget for the claimant's FAP benefits and reduced her benefit amount from [REDACTED] per month to [REDACTED] per month. (Department Hearing Summary).
4. On July 7, 2011, the claimant submitted a hearing request protesting the decrease in her monthly FAP benefits.

## **CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) 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). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

In determining the monthly amount of income to be used for budgeting purposes, department policy states as follows:

### **Standard Monthly Amount**

#### **Stable and Fluctuating Income**

A standard monthly amount must be determined for each income source used in the budget.

Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

- . Multiply weekly income by 4.3.
- . Multiply amounts received every two weeks by 2.15.
- . Add amounts received twice a month.

This conversion takes into account fluctuations due to the number of scheduled pays in a month.

**Exception:** Do not convert income for the month income starts or stops if a full month's income is not expected in that month. Use actual income received or income expected to be received in these months. BEM, Item 505, p. 7.

## **INCOME DEDUCTIONS**

### **FIP and SDA Only**

Income deductions are available at both the member and the group level. Apply deductions in the order they are presented in this item. BEM, Item 518, p. 4.

### **Earned Income Disregard**

Deduct \$200 from each person's countable earnings. Then deduct an additional 20% of each person's remaining earnings. The total disregard cannot exceed countable earnings. Apply this disregard separately to each program group member's earned income. BEM, Item 518, p. 4.

A non-categorically eligible, non-SDV FS group must have income below the gross and net income limits. BEM, Item 550, p. 1.

Use only available, countable income to determine eligibility. BEM 500 defines countable income. BEM 505 defines available income and income change processing. This item describes income budgeting policy. BEM, Item 550, p. 1.

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered.

Budget the entire amount of earned and unearned countable income. Gross countable earned income is reduced by a 20% earned income deduction. Every case is allowed the standard deduction shown in RFT 255. BEM, Item 550, p. 1.

### **Housing Expenses**

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group.

The expense must be a continuing one. Payments that exceed the normal monthly obligation are not deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, and it has not been allowed in a previous FAP budget. Additional expenses for optional charges, i.e., carport, pets, etc. are not allowed. BEM, Item 554, p. 9.

### **MANDATORY HEAT AND UTILITY STANDARD**

#### **Heat Separate from Housing Costs**

A FAP group which has a heat expense or contributes to the heat separate from rent, mortgage or condominium /maintenance payments, must use the Heat and Utility Standard. This standard covers all heat and utility costs except actual utility expenses, i.e. installation fees, etc. (See Actual Utilities in this item.) Do not prorate the Heat and Utility Standard even if the heat expense is shared.

FAP groups that qualify for the Heat and Utility Standard do not receive any other individual utility standards. BEM, Item 554, p. 11.

In this case, the claimant testified that she had received a pay increase since the last time that a budget was run for her case. She stated that she did not agree with the amount the department used for her gross income and testified that her gross monthly income is [REDACTED]. The department used a figure of [REDACTED] for the claimant's gross monthly income. As dictated by policy, a claimant's monthly income is to be determined by multiplying weekly income by 4.3 and bi-weekly income by 2.15. BEM 505. In the case at hand, the claimant testified that her monthly gross income is [REDACTED]. Dividing this number by four, and multiplying the result by 4.3, the end result is [REDACTED] ([REDACTED]). Therefore, this Administrative Law Judge concludes that, based on the testimony of the claimant as to what her

monthly gross income is, the department used the proper amount of income in determining the claimant's FAP budget.

Additionally, the claimant testified that the amounts used to calculate her excess shelter deduction were accurate. After using the figure of [REDACTED] for monthly gross income and applying the earned income deduction of [REDACTED], the standard deduction of [REDACTED], and the excess shelter deduction of [REDACTED], the department arrived at a figure of [REDACTED] for the claimant's net income.

Federal regulations at 7 CF 273.10 provide standards for income and the amount of household benefits. In accordance with the federal regulations, the department has prepared income and issuance tables which can be found at RFT 260. This issuance table provides that a household size of two with net income of [REDACTED] is entitled to a [REDACTED] FAP allotment. Therefore, the department FAP properly determined the claimant's FAP benefit allotment based on the claimant's income provided and acted in accordance with policy.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined the claimant's FAP benefit allotment.

Accordingly, the department's decision is **AFFIRMED**. It is SO ORDERED.

/s/

Christopher S. Saunders  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: August 31, 2011

Date Mailed: August 31, 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 date of the rehearing decision.

CSS/cr

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