

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

Monroe County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 received on September 9, 2011. After due notice, a telephone hearing was held on October 12, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly determined 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. Claimant was receiving FAP at all times pertinent to this hearing. (Hearing Summary).
2. Claimant's Senior/Disabled/Veteran (SDV) group size is 1.
3. Claimant received Retirement, Survivors and Disability Insurance (RSDI) in the amount of [REDACTED] a month and a monthly pension of [REDACTED]. (Department Exhibit C).
4. Claimant provided a handwritten statement from the RV Park where he was staying that listed a charge of [REDACTED] a day for an average of [REDACTED] a month for his rent. (Department Exhibit B).

5. On August 26, 2011, the department mailed Claimant a Notice of Case Action notifying Claimant his FAP benefits were closing effective because he had excess income. (Hearing Summary).
6. Claimant submitted a hearing request on September 9, 2011, protesting the closure of his FAP benefits. (Request for a Hearing).

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, Mich Admin Code, Rules 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. Mich Admin Code, Rule 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. 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 Reference Tables Manual (RFT).

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.

Claimant was receiving monthly unearned income in the amount of [REDACTED] from RSDI and [REDACTED] from his pension for a total of [REDACTED] at the time relevant to this matter. A medical deduction of [REDACTED] and the standard deduction of [REDACTED] were

subtracted from Claimant's countable income leaving an adjusted gross income of [REDACTED]).

In this case, Claimant does not contest the amounts the department used in calculating his unearned income. Claimant testified that the department used the incorrect amount in calculating his excess shelter deduction. Claimant stated that it cost him [REDACTED] a night at the campground and [REDACTED] a night if he wants utilities in order to take a shower. However, Claimant was unable to provide proof of the costs. When asked if he had provided proof to the department of the nightly fees, Claimant stated that he could not stay at the campground every night, but had been parking at truck stops because he could not afford to stay at the campground.

An excess shelter deduction is determined by adding Claimant's monthly housing expenses to the [REDACTED] standard heat and utility deduction under the Low Income Home Energy Assistance Program, and subtracting half of Claimant's adjusted gross income. Based on evidence received from the RV Park where Claimant had been staying at the time the department calculated Claimant's FAP benefits, Claimant's monthly rent was [REDACTED], which is added to the [REDACTED] standard heat and utility deduction for a total of [REDACTED]. Half of Claimant's adjusted gross income of [REDACTED] is [REDACTED]. Because the [REDACTED] is subtracted from Claimant's housing and utilities of [REDACTED], Claimant does not qualify for an excess shelter deduction. As a result, this Administrative Law Judge finds the department properly calculated Claimant's excess shelter deduction as zero based on the information it had at the time of the eligibility determination.

Claimant also disputes the amount the department used in calculating his medical expenses. Claimant testified that he tried to give copies of his medical bills to the department in May 2011, but they refused to take them. The department's testimony contradicted that of Claimant, and Claimant admitted that in May 2011, he finally signed something and left with the documentation. Based on the information Claimant had given the department regarding his medical expenses at the time his FAP eligibility was determined, this Administrative Law Judge finds the department properly calculated his medical expenses a [REDACTED] a month.

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 one with net income of [REDACTED] is not entitled to a FAP allotment. Therefore, the department's FAP eligibility determination was correct based on Claimant's RSDI.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in determining Claimant's FAP eligibility.

The department's FAP eligibility is AFFIRMED. It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 10/13/11

Date Mailed: 10/13/11

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 date of the rehearing decision.

VLA/ds

■ [REDACTED]