

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2011-8377

Issue No.: 3002

Case No.: [REDACTED]

Hearing Date:

February 14, 2011

Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 on February 14, 2011. Claimant appeared and testified. Iesha Brassel, ES and Diana Albert, FIM appeared on behalf of the Department.

ISSUE

Whether the Department of Human Services (DHS) properly calculated Claimant's Food Assistance Program ("FAP") benefits beginning with benefit month December 2010.

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 is a current FAP recipient. The Claimant receives FAP benefits in the amount of \$16 per month.

2. The Claimant's FAP benefits have fluctuated recently due to changes in her medical expenses which are deducted as expenses when computing the Food Assistance budget.
3. In November 2010, the Claimant received Food Assistance in the amount of \$200 which was a significant increase from the \$16 she generally received. That month the Claimant was credited for \$3579 medical deduction. Exhibit 1
4. Claimant has a FAP benefit group of one and the Claimant is disabled and is a SDV group.
5. The Claimant's sole income is from RSDI, which she receives monthly in the amount of \$1522. This amount was confirmed by the Claimant. Exhibit 1
6. In December 2010, the Claimant submitted a property tax bill which indicated that her summer tax balance was \$200.74 and winter tax was \$46.22 for a total of \$247.42. The total taxes are divided by 12 to get the monthly amount of \$20.62 which is correct. The taxes and insurance were not included in the FAP budget until January as they were received in December 2010. Exhibit 2 and Exhibit 4
7. The Claimant was also credited for her home insurance in the amount of \$132.17, which amount was included in the January Budget. Exhibit 3
8. Claimant is responsible for paying heat and received the heating and utility allowance of \$588 in all the FAP budgets calculated by the Department.

9. The Department submitted FAP budgets for November 2010, December 2010, and January 2011. Exhibits 1, 2, and 3. This hearing only considers the December FAP budget.
10. The January 2011 FAP budget as calculated by the Department included the shelter expense reported by the Claimant in December 2010. Exhibit 4
11. The budget prepared by the Department for January 2011 included the Claimant's taxes and insurance as part of the Shelter allowance. Exhibit 3
12. Claimant filed a Hearing Request on November 22, 2010, objecting to the amount of her FAP benefits and requesting additional assistance due to her special dietary needs. The hearing request was received on November 22, 2010.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et. seq.* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Table Manuals ("RFT").

DHS processed a FAP budget for Claimant for the period November, 2010, December 2010 and January 2011 and the benefit amounts varied. In November 2010

the Claimant had extremely high medical expenses of \$3597 which were included in her FAP budget. Because the medical expense was so large the Claimant received \$200 for November's Food Assistance. In December 2010, the Claimant's FAP budget had medical expenses of only \$62 and thus her food assistance was reduced to \$16.00. The Claimant's income from RSDI is fixed at \$1522 and thus the only item that changed was the Claimant's medical expenses. Both these budgets November 2010 and December 2010 used the correct unearned income from RSDI of \$1522. The Claimant does not dispute the amount of the unearned income used by the Department to compute her benefits.

Based on this income from RSDI and the medical expenses for December the Department calculated a monthly FAP benefit amount of \$16. Claimant is disputing the calculated FAP benefit amount of \$16 per month. BAM 556 directs how FAP benefits are calculated.

DHS processed a FAP budget for Claimant for the period December 2010. This budget was based on the Claimant's receiving income of \$1522.

In order to compute the gross monthly income in this case, the Department used the Claimant's RSDI. Thus the December budget contains no errors and is correct with regard to determining gross income as the Department used income in the amount of \$1522.

BEM 556 also requires a standard deduction based on Claimant's FAP group size (1 persons) of \$141. The standard deduction is determined by reference to RFT 255. Deducting the standard deduction from the gross monthly income results in the adjusted gross income. The Department's calculation of the Claimant's FAP budget also

deducted the standard deduction and the resulting adjusted gross income of \$1391 is correct as \$62 in medical expenses were also deducted. ($\$1522 - \$62 - \$141 = \1319). The budget for December contains no error and is correct.

Claimant's housing expense consists of taxes and homeowner's insurance. The Claimant provided verification of property taxes in the amount of \$247.42 per month which when divided by 12 to get the monthly cost is \$20.62 per month. The Department also credited the Claimant for insurance in the amount of \$132.17 which when added to together total expenses of \$157.79. The Claimant also was entitled to a utility allowance or \$588 monthly which was also given to the Claimant and added to her housing expense.. Claimant's total shelter expenses are calculated by adding her housing expenses credit with utility expenses. Claimant's total shelter expense is \$741 and is correct. ($\$157.79 + \$588 = \741). The Claimant reported her shelter expenses in December and thus the Department is required to include the change which will become effective in the month after the Claimant reported her shelter expenses or in January 2011.

Based upon the foregoing facts and law, it is determined that the Department properly calculated the Claimant's FAP benefits in December 2010 and the budgets as calculated contain no error. The Department's determinations in regards to the December FAP benefits are correct and must be affirmed.

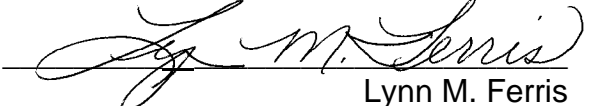
Unfortunately, even the though claimant requires additional expenses for food she purchases due to food allergies, the Claimant is not entitled to receive additional food assistance due to her special dietary needs due to food allergies. FAP benefits are calculated strictly based upon income received and the final amount after any

deductions is the entitlement amount. The policy requires that it be strictly adhered to and no additional assistance is awarded due to dietary needs.

Because the Claimant's medical expenses can fluctuate, the Food assistance amount can change if the medical expenses are high in a month. The claimant is urged to continue to submit her medical expenses monthly and the Department will make the appropriate adjustments. By reporting the medical expenses monthly, Claimant may, though not necessarily, be entitled to an increase in FAP benefits in future months.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly calculated the Claimant's FAP benefits for the months of November 2010 and December 2010. Accordingly, the Department's FAP benefit calculations and the FAP benefit amounts are AFFIRMED.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 02/24/11

Date Mailed: 02/28/11

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.

LMF/dj

cc:

