

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-10994
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 19, 2011
Macomb County DHS (20)

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 January 19, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly determined claimant's eligibility for Food Assistance Program (FAP) benefits effective 12/2010.

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 was an ongoing FAP benefit recipient.
2. Claimant is part of a FAP benefit group of two persons.
3. Claimant is a disabled individual.
4. Claimant received \$1285/month in gross Retirement, Survivors, Disability insurance (RSDI) income.
5. Claimant is responsible for \$923/month in monthly housing expenses which includes a mortgage, property taxes and property insurance.
6. As of 12/2010, Claimant is not responsible for payment of a Medicare premium.

7. On 10/29/10, DHS mailed Claimant a Notice of Case Action (Exhibit 1) informing Claimant that her FAP benefits would be \$305/month effective 12/2010.
8. On 11/8/10, Claimant requested a hearing disputing the amount of her 12/2010 FAP benefits; Claimant specifically stated that DHS failed to properly consider her utility, medical and property expenses.

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). The Department of Human Services (formerly known as the Family Independence Agency) administers the FAP program 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 present case involves a dispute of Claimant's 12/2010 FAP benefit determination. Claimant specifically contended that DHS failed to properly consider Claimant's medical, utility and property expenses. Claimant's contentions will each be considered in the subsequent FAP benefit analysis. BEM 556 outlines the proper procedures for calculating FAP benefits.

It was not disputed that Claimant receives \$1285/month in RSDI income. For all programs, the gross amount of RSDI is countable income. BEM 503 at 20.

Claimant's two-person FAP benefit group receives a standard deduction of \$141. RFT 255. The standard deduction is given to all FAP benefit groups; the amount of the deduction varies and is based on the group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$1144.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 at 1. For groups without a senior, 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. DHS also considers the medical expenses for group members that are S/D/V.

Claimant indicated that she has ongoing medical expenses. Throughout the hearing, it was believed that Claimant was responsible for payment of a Medicare Part B premium. At the end of the hearing, Claimant clarified that as of 12/2010, DHS was paying Claimant's Medicare premium though Claimant was notified that effective 2/2011 DHS would no longer be responsible for the premium's payment. An SOLQ, a report which verifies Social Security Administration information, also verified that as of 12/2010 DHS, not Claimant, was responsible for payment of Claimant's Medicare premium.

The undersigned makes no findings concerning the DHS action in the stopping of payment of Claimant's Medicare premium effective 2/2011; Claimant may request a hearing concerning that issue if she has not already done so. For purposes of Claimant's 12/2010 FAP benefits, it need only be found that Claimant is not entitled to a Medicare premium expense because Claimant was not responsible for payment of the expense.

Claimant also testified that she had a monthly cancer insurance policy expense. DHS did not budget the expense in determining Claimant's 12/2010 FAP benefits. The undersigned is inclined to find that DHS properly did not consider the expense for two reasons. First, DHS applies a \$35 monthly copayment in the total medical expenses. Claimant indicated that her cancer policy expense was approximately \$21/month. As this was the only indicated legitimate medical expense, the total medical expenses would not exceed \$35 and there would be no medical expense credit to give. Secondly, the evidence shows that Claimant did not report the expense to DHS. Claimant returned a Redetermination (Exhibit 6) to DHS on 9/24/10. A Redetermination is a document which DHS uses to redetermine benefits toward the end of benefit periods. The document asked Claimant to list her medical expenses; Claimant responded "Don't understand- not sure if this applies". Thus, DHS did not have knowledge of any medical expenses from Claimant. Accordingly, DHS properly did not budget any medical expenses for Claimant in calculating Claimant's 12/2010 FAP benefit issuance as the expenses were not reported to DHS.

Claimant also indicated that her shelter expenses were not properly considered by DHS. Claimant contended that she is responsible for a \$652.31/month mortgage payment. Claimant submitted a document from Huntington Bank (Exhibit 3) which indicated a \$587.31 total minimum payment due. The document also indicated an additional \$65 payment from Claimant. Claimant testified that the \$65 payment was required for some unspecified fees. There was no evidence to support this finding. It is found that Claimant should be credited for a \$587.31/month mortgage obligation as this amount was verified to be Claimant's responsibility. Claimant's \$65 payment appears to be a voluntary payment by Claimant toward her mortgage.

Claimant also verified an \$842/year property insurance obligation (Exhibit 4) and a \$3196.85/year property tax obligation. These amounts should be added and divided by 12 to determine the monthly obligation. That amount is found to be \$336.57. Claimant's mortgage obligation is added to the \$336.57 to determine Claimant's total monthly housing obligation; that amount is found to be \$923.88

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 (\$923.88) to the utility standard (\$588); this amount is found to be \$1511 (dropping cents).

DHS only credits FAP benefit groups with what DHS calls an "excess shelter" expense. This expense is calculated by taking Claimant's total shelter expenses (\$1511) and subtracting half of Claimant's adjusted gross income. Claimant's excess shelter amount is found to be \$939.

Claimant's net income is determined by taking Claimant's adjusted gross income (\$1144) and subtracting the excess shelter expense (\$939). Claimant's net income is found to be \$205. 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 \$305, the same amount calculated by DHS. It is found that DHS properly calculated Claimant's FAP benefits for the benefit month of 12/2010.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined that Claimant is eligible for \$305/month in FAP benefits effective 12/2010. The actions taken by DHS are AFFIRMED.

Christian Gardocki

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

Date Signed: 1/25/2011

Date Mailed: 1/25/2011

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

201110994/CG

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.

CG/jlg

cc:

