

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

ADMINISTRATIVE LAW JUDGE: [REDACTED]

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Claimant's request for hearing. After due notice, a 3-way telephone conference hearing was held on [REDACTED]. The Claimant's representative, [REDACTED], was present and testified.

ISSUE

1. Did the Department properly determine Claimant's Food Assistance Program (FAP) benefit?

FINDINGS OF FACT

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

1. The Claimant was receiving FAP benefits from the State of Michigan.
2. The Claimant properly reported an increase in income as the result of RSDI. (Department Exhibit 1 page 6).
3. The Department recalculated the Claimant's FAP budgets. (Department Exhibit 1 pg 1-5).
4. The Claimant was sent a Notice of Action.
5. On [REDACTED], the Department received the Claimant's Request for 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, MAC R 400.901 - .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) An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2)

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. 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), Reference Table Manual (RFT), State Emergency Relief Manual (ERM) and the Bridges Reference Manual (BRM). Department policy states:

BEM 550 DEPARTMENT POLICY

This item applies **only** to **FAP**.

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits.

A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits.

Use **only** available, countable income to determine eligibility.

The BEM 500 series defines countable income. BEM 505 defines available income and income change processing.

This item describes income budgeting policy. **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. Document income budgeting on either a manually-calculated or an automated FAP worksheet.

BEM 505 DEPARTMENT POLICY DEFINITIONS All TOA

Income

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if not paid directly such as income paid to a representative.

Countable Income

Countable income is the amount remaining after applying policy in this and other income-related manual items. This is the amount used to determine eligibility and benefit level. Earned Income Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Some rental income is considered earned; see BEM 504, Income from Rental/Room and Board. Unearned Income Unearned income is all income that is not earned. Gross Income Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. (BEM 500).

BEM 503 RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) (AKA SOCIAL SECURITY BENEFITS) All Types of Assistance

RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. Bridges counts the gross benefit amount as unearned income.

BEM 554 MEDICAL EXPENSES

Application and Redetermination

Consider **only** the medical expenses of SDV persons in the eligible group or SDV persons disqualified for certain reasons; see Expenses for Disqualified or Ineligible Persons in this item. Estimate an SDV person's medical expenses for the benefit period. Base the estimate on all of the following:

- Verified allowable medical expenses.
- Available information about the SDV member's medical condition and health insurance.

- Changes that can reasonably be anticipated to occur during the benefit period.

During the Benefit Period A FAP group is not required to, but may voluntarily report changes during the benefit period. Process changes during the benefit period **only** if they are one of the following:

- Voluntarily reported and verified during the benefit period such as expenses reported and verified for MA deductible.
- Reported by another source and you have sufficient information and verification to determine the allowable amount without contacting the FAP group. BEM 554 pg. 6

The Department is required to count the Claimant's total gross income in determining the Claimant's eligibility for FAP benefits. The Claimant received an increase in income as the result of his RSDI income. The Department recalculated the FAP benefit based on the increase in income. The Claimant's household had earned income in the amount of [REDACTED]. The Claimant's household had unearned income in the amount of [REDACTED]. The Department determines a FAP group's net income by deducting certain standard deductions. The Claimant's household had a standard deduction of [REDACTED]. Department policy also permits the deduction of certain expenses. These expenses include shelter expenses. The claimant had a housing expense of [REDACTED] and a heat and utility deduction of [REDACTED]. After calculating the standard deductions, the Claimant had a total net income properly calculated to be [REDACTED]. The federal regulations provide standards for income and the amount of household benefits. In accordance with federal regulations, the Department has prepared income and issuance tables which can be found at RFT 250 and 260. The issuance table provides that a group size of 8 with an income of [REDACTED] receives a FAP benefit in the amount of [REDACTED].

The Claimant agrees with the Department's calculation of his income and shelter expenses. However, the Claimant would like the Department to include the cost of his medications as a deduction. The Claimant states that his medications are very expensive and he is unable to afford food after paying for his expenses.

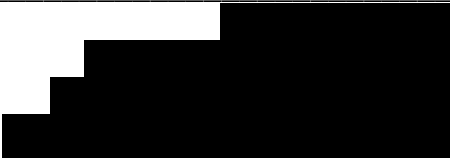
Department policy permits the deduction of certain medical expenses for individuals who are disabled. Based on Department exhibit 1, pg 6-8, the Claimant is disabled. He has a disability onset date of [REDACTED]. Therefore, the Department should provide a deduction for the medical expenses of the Claimant as a disabled person. There is nothing in the record to indicate that the Department permitted the Claimant to provide the documentation for his medical expenses so that they could be properly deducted.

DECISION AND ORDER

This Administrative Law Judge, based upon the above findings and conclusion of law, decides that the Department did not properly determine the Claimant's FAP benefit.

Accordingly, the Claimant shall provide the Department with receipts for his allowable medical expenses. The Department shall then recalculate the FAP benefit for the Claimant pursuant to BEM 554.

It is so ORDERED.

_____/s/_____


Date Signed: 4/14/11

Date Mailed: 4/14/11

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.

