

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-29805
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: May 12, 2011
DHS County: Wayne (82-57)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) Sections 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on May 12, 2011. Claimant appeared and testified. [REDACTED] appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS calculated Claimant's Food Assistance Program (FAP) benefits in accordance with DHS policy and procedure?

FINDINGS OF FACT

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

1. In 2011, Claimant received FAP benefits for a family group of two.
2. Also in 2011, Claimant received Unemployment Insurance (UI) benefits.
3. On or about April 5, 2011, DHS issued a Notice of Case Action reducing Claimant's FAP benefits based on her UI income. The reduction was to become effective May 1, 2011.
4. On April 13, 2011, Claimant filed a Request for a Hearing with DHS.

CONCLUSIONS OF LAW

FAP was established by the United States Food Stamp Act of 1977 and is implemented by federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-400.3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The DHS manuals are the policies and procedures DHS officially created for its own use. While the manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policy is, I will examine whether it was in fact followed in this case.

The legal authority for DHS' action is in BEM 500, "Income Overview." BEM 500 sets the legal standard for what is and is not income.

"Income" is defined in BEM 500 as follows:

Income means a benefit or payment received by an individual which is measured in money.... Unearned income is all income that is not earned.... 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.... Count all income that is **not** specifically excluded. BEM 500, p. 3 of 12 (bold print in original).

BEM 503, "Income, Unearned," lists unemployment benefits as a type of unearned income that DHS does include in benefit calculations. Accordingly, DHS is required to use UI benefits in calculating a customer's monthly FAP benefit.

Now, in this case, the Claimant is disputing the computation of her FAP allotment for the reason that DHS multiplied her biweekly UI benefit, \$362, by 2.15 in order to reach an average monthly amount. BEM 505, "Prospective Budgeting/Income Change Processing," requires DHS to convert available income into a standard, nonfluctuating monthly amount of countable income. BEM 505 explains that this is required when a customer has "stable and fluctuating income that is received more often than monthly." BEM 505, pp. 1, 6.

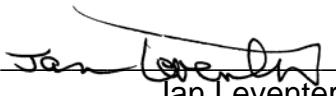
I find that this is Claimant's situation, because she receives UI benefits more frequently than once a month. Claimant's UI covers only twenty-eight days, which is less than most months, so the conversion to a standard amount becomes necessary.

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In conclusion, based on the findings of fact and conclusions of law above, I AFFIRM DHS' action in this case. DHS need take no further action in this matter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines that DHS took appropriate action in calculating Claimant's FAP benefits. DHS' action is AFFIRMED. DHS need take no further action.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 16, 2011

Date Mailed: May 16, 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.

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.

JL/pf

cc:

