

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2011-30042
Issue No.: 3002, 3025
Case No.: [REDACTED]
Hearing Date: May 16, 2011
Wayne County DHS (55)

ADMINISTRATIVE LAW JUDGE: Lynn 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 from Detroit, Michigan on Wednesday, May 16, 2011. The Claimant appeared and testified. [REDACTED] appeared as an interpreter for the Claimant. [REDACTED] FIS appeared on behalf of the Department of Human Services ("Department").

ISSUE

Whether the Department properly determined the Claimant's Food Assistance benefits.

FINDINGS OF FACT

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

1. The Claimant receives FAP benefits in the amount of \$200 per month for his daughter, a child who is under the age of [REDACTED]
2. The Claimant's son is [REDACTED] years of age and is not eligible for FAP benefits as he has alien status but he has not been in the United States for 5 years.
3. The Claimant and his spouse have alien status but have not been in the United States for 5 years.
4. The Claimant's group consists of 4 persons, none of whom have been in this country for 5 years based upon the alien registration cards provided to the Department.

5. The Claimant has received \$200 in FAP benefits per month since August 2010. \$200 is the maximum amount which can be received by one person.
6. The Claimant pays rent in the amount of \$450.
7. The Claimant's group reported no income. The Claimant's son may work part time but the income has not been reported.
8. The Claimant requested a hearing on April 13, 2011, protesting the amount of food assistance he received as he has an outstanding heating bill he cannot pay and believes his FAP benefits should be increased.

CONCLUSIONS OF LAW

FAP benefits

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 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 Bridges Reference Manual ("BRM").

The Department is required to determine alien status at application, redetermination and when member adds are completed. BEM 225 page 1.

In order to be eligible as a qualified alien, a person must have resided in the U.S. for at least 5 years since their date of entry. BEM 255, page 8.

In this case, only one member of the Claimant's group is currently eligible to receive FAP benefits as the remaining members have not resided in this country the minimum of 5 years since their entry to this country. Thus the FAP budget is very simple and the FAP group currently receives the maximum monthly amount for one individual which is \$200 for one person.

Others living with a person disqualified by this requirement can qualify for program benefits. However, the disqualified person's assets and income might have to be considered based upon the programs requested. Id.

The Department must consider income of group members living with eligible FAP recipients. In this case the Claimant reported to income for himself but testified that his son may have part time income, if this is the case, the Claimant must report his son's income to the Department within 10 days of the change.

The FAP budgets prepared by the Department and submitted at the hearing have been reviewed and the Claimant's rent in the amount of \$450 has been included as well as a

\$588 utility allowance. The utility allowance covers all utilities and is not intended to cover the full amount of utility expenses which might be incurred by a recipient. At the hearing the Claimant was seeking to have his FAP benefits increased due to an outstanding heating bill which is due. Unfortunately, the utility standard is the maximum that is granted to all recipients when FAP benefits are calculated regardless of actual cost or expense. RFT255 and BEM 554, page 10. Based upon the foregoing the Department correctly calculated the Claimant's Shelter deduction and the FAP group received the maximum deduction for shelter expenses, \$458. Exhibit 2.

It is noted that the Department included \$320 of monthly income which was not supported by the record presented at the hearing, as the Claimant reported receiving no income and had not as yet reported his son's income, if any. Because the utilization of this income does not change the FAP benefit amount, the Department's determination is upheld. This income does not affect the amount of benefits received and the FAP benefit amount of \$200 currently received by the Claimant is the maximum amount which can be received by one person. Although the income does not affect the FAP benefits currently, the FAP budget must be reviewed at such point in time when this income could affect the amount of the benefits and such reviews should be a part of any future computation. Exhibit 1

Based upon the foregoing, it is determined that the Department's calculation of the FAP benefits, as demonstrated by the budget information submitted after the hearing, have been reviewed and are upheld as the group currently receives the maximum amount available to a single person. The FAP amount is supported by the evidence presented at the hearing and the Department's determination in that regard is affirmed.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Department's calculation of the Claimant's FAP budget is correct and is AFFIRMED.



Lynn Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 05/26/11

Date Mailed: 05/26/11

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:

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