

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-30185
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: May 16, 2011
DHS County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on May 16, 2011. Claimant appeared and testified at the hearing. [REDACTED] and [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 policies and procedures?

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. On April 22, 2010, DHS awarded FAP benefits to Claimant.
2. On May 1, 2010, Claimant began receiving Supplemental Security Income (SSI) disability benefits from the U.S. Social Security Administration.
3. Before April 20, 2011, DHS conducted an update of Claimant's information on file and learned from SSA records that Claimant's current monthly benefit is \$193, and that effective June 1, 2011, his SSI will increase to \$674.

4. On April 20, 2011, DHS issued a Notice of Case Action informing Claimant that beginning June 1, 2011, his FAP benefits would be reduced from \$200 per month to \$130 per month.
5. On April 26, 2011, Claimant filed a Hearing Request with DHS.

CONCLUSIONS OF LAW

FAP was established by the U.S. 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 DHS' authorities for its action in this case are BEM 500, "Income Overview," BEM 550, "FAP Income Budgeting," and BEM 554, "FAP Allowable Expenses and Expense Budgeting." I find that these Items provide procedures for DHS' actions in this case. But, even though DHS followed its procedures, a client error occurred making it necessary to REVERSE DHS' action and return this case to DHS for recalculation.

At the Administrative Hearing on May 16, 2011, Claimant testified that he paid \$100 per month rent to his sister for the past thirteen months. Upon hearing this information for the first time, DHS testified it would permit Claimant to submit verification of shelter expense and DHS would recalculate his FAP benefits. I find and determine that BEM 554, p.10, requires a deduction from income for housing expenses such as rent, and DHS is entirely correct in offering to recalculate Claimant's FAP benefits upon verification of his rent payments.

In conclusion, based on all of the findings of fact and conclusions of law, I find and conclude that DHS is REVERSED in this case. DHS must recalculate the correct FAP allotment for Claimant based on verified rent expenses and provide any retroactive supplemental FAP benefits to restore Claimant to the position to which he is entitled.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, states that DHS is REVERSED. IT IS ORDERED that DHS shall recalculate Claimant's FAP allotment based on verified rent expenses, adjust his allotment, and provide retroactive supplemental FAP benefits as appropriate, in accordance with DHS policies and procedures.



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

Date Signed: May 17, 2011

Date Mailed: May 18, 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:

