

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

IN THE MATTER OF:

[REDACTED]

Reg No: 2011 31075
Issue No: 3015
Case No: 1 [REDACTED]
Hearing Date:
May 23, 2011
Wayne County DHS (55)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on May 23, 2011. The Claimant appeared and testified. [REDACTED] ES appeared and testified on behalf of the Department.

ISSUE

Whether the Department correctly determined that the claimant's gross earned income and unearned income from child support exceeded the gross income limit and correctly denied the Claimant's Food Assistance (FAP) case.

FINDINGS OF FACT

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

1. The Claimant applied for Food Assistance on April 5, 2011.
2. The Claimant's application was denied on April 5, 2011, by notice of case action dated April 13, 2011, due to excess income making the Claimant's group ineligible for Food Assistance. Exhibit 7

3. The gross income test submitted by the Department indicates that the Claimant's income does not exceed the income limit. Exhibit 6
4. The Notice of case action and the gross income test submitted by the Department are inconsistent.
5. The Claimant was employed by [REDACTED] and had gross income for March 2011 in the biweekly amount of \$888.88 and \$887.19 for the weeks ending May 12, 2011 and May 26, 2011. The earned income for the period for the Claimant for this employer was \$1909.27. Exhibit 1
6. The Claimant also received earned income of \$34.34 for March 2011 from the [REDACTED] a part time employer. Exhibit 2
7. The Claimant's spouse, [REDACTED] had earned income from [REDACTED] [REDACTED] for the month of March 2011 in the amounts of \$258.56 and \$320.13 for the periods ending March 13 and March 27, 2011. The Gross income for the period for this employer was \$622.09. Exhibit 3
8. The Department's Child Support Search Report record reported the following amounts of child support was received by [REDACTED] for one of her children: \$296.32 for February 2011; \$483.30 in March 2011 and \$125.67 for the first week of April 2011. Exhibit 4
9. The Claimant's spouse only recently began receiving child support, as her child's father has not paid child support for several years.
10. [REDACTED] testified that she did not receive any child support in the month of March 2011, but did begin receiving child support in April 2011 and May, but did not know the specific amounts and that the amount might

change because the child's father has requested the child support amount be reduced.

11. The Claimant has a FAP group of 5 members. The income limit for a FAP group of 5 members is \$2794. If the FAP group is deemed categorically eligible the income limit is \$4300.
12. The Department included unearned income for child support in the amount of \$734. Exhibit 6
13. The Gross income test, as calculated by the Department, indicates that the Claimant's FAP group is eligible based on income \$3568. Exhibit 6
14. No FAP budget calculations were presented, which supported the Department's denial of the claimant's case based on excess income. Exhibit 6
15. The Claimant requested a hearing on April 25, 2011, protesting the denial of his FAP application.

CONCLUSIONS OF LAW

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) and the Bridges Reference Manual (BRM).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be

included unless specifically excluded. BEM 500. A standard deduction from income of \$178 is allowed for households of claimant's size, 5 members. RFT 255. Certain non-reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$459 for non-senior/disabled/veteran households. BEM, Items 500 and 554; RFT 255; 7 CFR 273.2. BEM 554 allows for rent expenses and other expenses associated with housing to be included in the FAP benefit calculation. Any other expenses are considered non-critical, and thus, not allowed to be deducted from gross income. Furthermore, RFT 255 states exactly how much is allowed to be claimed for each shelter expense. Policy provides, regardless of the actual bill, whether the FAP recipient actually pays a utility bill of \$588 utility standard (expense). This is a flat expense and does not consider the actual utility amount that is paid by the FAP recipient.

In this case, the Administrative Law Judge has reviewed the Department's denial of the Claimant's FAP application and finds that the evidence submitted by the Department does not support the amount of unearned income of \$735 per month included as average monthly child support and used in calculating the FAP budget. The Department used the Child Support Search computer information available to it and calculated that the average for the 3 months and included \$735 as the average monthly child support amount in the FAP budget. There is no basis for this monthly amount. This is clear error and the child support amount must be recalculated.

The child support amounts used at the time the FAP budget was calculated were \$296.32 for February 2011, \$483.30 for March 2011. The Department also included \$125.67 for April 2011, which was the amount reported received in the first week of April 2011. The Claimant testified that she had only recently begun receiving child support as the father of her child had been picked up for non payment of support, thus at the time there were not 3 month available to determine an average. BEM 505, page 3.

The partial payment of \$125.67 for April 2011 should not have been included when determining the average monthly child support as policy advises to use the current month only if all payments expected for the month have been received. BEM 505 Id. The monthly average child support amount which should have been used was \$389.81. ($\$296.32 + \$483.30 = \$779.62 \div 2 = \389.81).

Given the fact that the Department incorrectly included the wrong child support amount in the FAP calculation, the gross income amount is too high and is incorrect and thus the Department's denial of the application is reversed. Additionally it is noted that the gross income test and the Notice of Case action are inconsistent. The notice of case action denies the application for FAP due to excess income, but the Claimant did not fail the gross income test. Exhibits 6 and 7.

Therefore, the gross income amount must be redetermined as the amount relied upon by the Department is incorrect. Based upon the evidence provided, the Department did not sustain its burden of proof to demonstrate that it correctly denied the Claimant's FAP application effective April 5, 2011.

Lastly, the Department used a gross income limit of \$4300 when it determined whether the Claimant's gross income exceeded the limit. \$4,300 is the limit for

categorically eligible groups based upon an income limit for domestic violence enhanced authorization which confers categorical eligibility. It was not clear from the record presented whether this income limit is the appropriate limit for the Claimant's FAP group. Therefore, it cannot be determined whether the standard income limit for a group of five members of \$2794 should have been used or the categorical income limit. RFT 250.

As the Administrative Law Judge has reviewed the documents submitted by the Department and found that the Department erred when it calculated the unearned income child support monthly amount, the Department's action denying the Claimant's FAP application is reversed.


DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, determines that the Department's decision to deny the Claimant's FAP application of April 5, 2011 was incorrect and its determination regarding the Claimant's gross income amount and child support received is not supported by the record presented and is REVERSED.

Accordingly, it is ORDERED:

1. The Department is ORDERED to reinstate the Claimant's FAP application retroactive to April 5, 2011, and shall recalculate the FAP budget to correct the child support income received and determine the Claimant's gross income and eligibility for FAP benefits.

2. The Department shall also separately determine the correct gross income limit per RFT 250 to be applied to the Claimant's group when calculating the gross income test to determine if the Claimant's FAP group is eligible.
3. The Department shall issue a FAP supplement to the Claimant if the Claimant is found to be eligible for FAP benefits, if any, in accordance with policies found in the Bridges Administrative and Eligibility Manuals.


Lynn M. 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:

[REDACTED]