

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

IN THE MATTER OF:

[REDACTED]

Registration. No: 2011-31893
Issue Nos: 3002; 3003

[REDACTED]

Washtenaw County DHS

Administrative Law Judge: Mark A. Meyer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge in accordance with MCL 400.9, MCL 400.37 and 1979 AC, R 400.903. Claimant requested a hearing on November 1, 2010, and, after due notice, one was held on June 7, 2011. Claimant appeared at hearing and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

ISSUE

In dispute was whether the Department properly calculated Claimant's Food Assistance Program (FAP) budget for the period in issue.

FINDINGS OF FACT

Based on the competent, material, and substantial evidence on the whole record, the Administrative Law Judge finds as relevant fact:

1. Claimant applied for FAP benefits on September 30, 2010. (Department's hearing summary.)
2. Claimant was properly determined to be in a FAP group size of one. (Department's Exhibit 1, p 1.) Claimant admitted to this at hearing.
3. The benefit period in issue began on October 1, 2010. (Department's Exhibit 1, p 1.)
4. Claimant received monthly Retirement, Survivors, and Disability Insurance (RSDI) income of [REDACTED] from that amount, [REDACTED] was deducted by the Social

Security Administration (SSA) for her Medicare Part B insurance premium. (Department's Exhibit 5, p 1.)

5. The Department determined Claimant's adjusted gross income, for FAP purposes, to be [REDACTED] standard deduction for a group size of one). (Department's Exhibit 1, p 1.)
6. After accounting for a [REDACTED] heat and utility standard deduction, the agency concluded that Claimant had a FAP net income of [REDACTED]. (Department's Exhibit 1, p 2.)
7. Based on the Department's calculations, Claimant's FAP benefits were processed on October 11, 2010, in the amount of [REDACTED] per month. (Department's hearing summary.)
8. From the Department's FAP determination, Claimant filed a request for hearing, contesting the amount of monthly benefits. (Claimant's hearing request and attachment.)

CONCLUSIONS OF LAW

The hearing and appeals process for applicants and recipients of public assistance in Michigan is governed by 1979 AC, R 400.901 through 400.951, in accordance with federal law. An opportunity for hearing must be granted to an applicant who requests a hearing because his claim for assistance is denied or not acted on with reasonable promptness, and to any recipient who is aggrieved by Department action resulting in suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1).

An applicant or recipient holds the right to contest an agency decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department must provide an administrative hearing to review the decision and determine its appropriateness. Bridges Administrative Manual (BAM) 600, p 1.¹

Here, the Department approved Claimant's application for FAP, determining that she was entitled to a monthly benefit of \$16.00. From this determination, Claimant filed a request for hearing, which was received by the agency on November 1, 2010. A timely notice of hearing was subsequently issued.

FAP – formerly known as the Food Stamp Program – was established by the Food Stamp Act of 1977, 7 USC 2011, *et seq.*, as amended, and is implemented through federal regulations found in the Code of Federal Regulations (CFR), 7 CFR 273.1 *et seq.* The Department administers the FAP under MCL 400.10, *et seq.*, and Rules

¹ All citations are to Department of Human Services (Department) policy in effect at the time of the agency action in issue.

400.3001 through 400.3015. Agency policies pertaining to the FAP are found in the BAM, Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

For FAP purposes, certain expenses are reviewed in determining net income, which in turn establishes benefit eligibility and payment amounts. BEM 554, p 1.

These expenses are allowed if all of the following are met:

- The service is provided by someone outside of the FAP group.
- Someone in the FAP group has the responsibility to pay for the service in money.
- Verification is provided, if required. [BEM 554, p 1.]

"Responsibility to pay" means that the expense is in the name of a person in the FAP group. BEM 544, p 1.

For a FAP group with one or more senior/disabled/veteran (SDV) members, allowable medical expenses that exceed ██████████ are taken into account when calculating the FAP budget. BEM 554, p 1; see also BEM 554, pp 6, 9.² Here, it appeared from the record that Claimant qualified as an SDV group member – she was receiving RSDI. (See Department's Exhibit 5, p 1.) The Department offered no rebuttal to this information at the time of hearing.

For the FAP, allowable medical expenses include premiums paid for healthcare coverage under Medicare. BEM 554, p 7-8. Medical expenses must be verified. BEM 554, p 9. In other words, the Department is responsible for gathering appropriate verification, and the recipient is responsible for providing it to the agency as requested.

Here, the record established that a Medicare Part B premium of ██████████ was deducted by the SSA from Claimant's monthly RSDI benefit of ██████████. Claimant credibly testified that she thus only received a monthly RSDI payment of \$901.00; this testimony was corroborated by information found in the Department's Exhibit 5, p 1. Moreover, the Department admitted at hearing that it appeared the State of Michigan was not paying Claimant's Medicare Part B premium; such payment would disqualify her from claiming it as an expense for FAP purposes. BEM 554, p 1. The agency further admitted that a recipient responsible for paying a Medicare Part B premium could count it as a medical expense. And, it appeared from the record that Claimant held "the responsibility to pay" this premium. BEM 554, p 1.

² A senior/disabled/veteran (SDV) Food Assistance Program (FAP) group is one that has at least one SDV member; what constitutes an SDV member may be found at BEM 550, p 1.

A review of Claimant's calculated FAP budget, however, established that her medical expense (i.e., her Medicare Part B premium) was not taken into consideration by the Department in determining her FAP benefit amount. (See, e.g., the Department's Exhibit 1, p 1; "Medical Deduction" line = \$0.00.)

Other allowable expenses includable in the calculation of a recipient's FAP budget are property taxes and insurance on a structure. BEM 554, p 10. These claimed expenses must also be adequately verified. BEM 554, p 11.

Again, although the Department's Exhibit 4 indicates that Claimant did, in fact, have both property tax and structure insurance expenses, it did not appear that the agency took these expenses into account in calculating Claimant's FAP budget. (See, e.g., the Department's Exhibits 1, 2.)

Based on the Department's failure to account for Claimant's medical, property tax, and structure insurance expenses in calculating her FAP budget, there is considerable doubt that the agency properly followed applicable policy in this matter.³

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge decides that the Department failed to properly calculate Claimant's FAP budget. The agency is therefore ordered to recalculate Claimant's FAP budget, taking into account her allowable medical expenses, and her property tax and structure insurance expenses, to the extent that each is properly and adequately verified.

Furthermore, because it appears from the record that the Department was provided with information regarding the above expenses contemporaneously to Claimant's application for FAP benefits, the agency's recalculation should begin at that point.

It is SO ORDERED.

³ Claimant testified that she was told by her Department caseworker that she would "be receiving [redacted] [per] month[,] not [redacted] in FAP benefits. (Attachment to Claimant's hearing request, ¶ 1.) But, this Administrative Law Judge notes that the difference in monthly FAP benefits between [redacted] is significant when viewed in light of Reference Table Manual (RTM) 260 (the Department's established FAP issuance tables). For example, to receive [redacted] in FAP benefits, a group size of one was required to have a net monthly income between [redacted]. Comparatively, for a group size of one, a [redacted] monthly FAP benefit began at a net monthly income of [redacted] RTM 260. pp 3, 6. Here, Claimant's net monthly income was determined by the agency to be [redacted]. Based on the evidence provided in this matter, and even taking into account Claimant's medical, property tax, and structure insurance expenses, it is unreasonable to conclude that Claimant would have been told by her Department caseworker that she was entitled to FAP benefits in the amount of [redacted] per month.

_____/s/_____
Mark A. Meyer
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: ___6/10/11_____

Date Mailed: ___6/10/11_____

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.

Claimant may appeal this Decision and Order to the Circuit Court for the county in which he/she resides within 30 days of the mailing of this Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

MAM/ds

