

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-32329
Issue No.: 3000
Case No.: [REDACTED]
Hearing Date: May 31, 2011
DHS County: Wayne (82-76)

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 31, 2011. Claimant appeared and testified at the hearing. [REDACTED] Claimant's Authorized Representative, appeared and testified for Claimant. [REDACTED] [REDACTED] [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS computed Claimant's Food Assistance Program (FAP) allotment 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. Claimant is a recipient of Retirement, Survivors and Disability Insurance (RSDI) from the U.S. Social Security Administration (SSA).
2. SSA deducts \$30 from Claimant's monthly benefit in order to recoup a past overpayment made to Claimant.
3. In 2011, Claimant received FAP benefits from DHS.
4. In about March 2011, Claimant's RSDI income increased from \$919 to \$924.

5. On May 1, 2011, DHS reduced Claimant's FAP benefits from \$97 to \$88 per month.
6. On May 2, 2011, Claimant filed a Request for a Hearing with DHS.
7. At the Administrative Hearing on May 31, 2011, DHS offered to re-compute Claimant's FAP benefits from May 1, 2011, to the present and agreed to review whether Claimant is entitled to an income deduction of \$30 for the SSA recoupment of a past overpayment.
8. Claimant accepted this offer and testified he no longer wished to continue the Administrative Hearing.

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 the FAP program 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.

BAM, BEM and RFT are the policies and procedures DHS officially created for its own use. While the DHS 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.

Under BAM Item 600, "Hearings," clients have the right to contest any DHS decision affecting eligibility or benefit levels whenever they believe the decision is illegal. DHS provides an Administrative Hearing to review the decision and determine if it is appropriate. DHS policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when DHS receives a hearing request and continue through the day of the hearing.

In this case, the parties stipulated to a settlement agreement whereby DHS will make a determination whether Claimant's deduction from his RSDI income may be deducted from his gross income for FAP income computation purposes. If DHS determines that Claimant is entitled to this deduction, it will re-compute Claimant's FAP budget from May 1, 2011, to the present and provide Claimant with appropriate supplemental

benefits. As the parties have reached an agreement, it is not necessary for the Administrative Law Judge to decide the issue presented in this case.

In conclusion, based on all of the findings of fact and conclusions of law and the stipulated agreement of the parties, I HEREBY ORDER that DHS shall determine if Claimant is entitled to a deduction of \$30 per month from his gross income for FAP benefit purposes, and if he is, DHS shall re-compute Claimant's FAP benefits from May 1, 2011, to the present and provide any FAP adjustments to Claimant to which he is entitled.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law and the settlement agreement of the parties, orders the following settlement in this case: IT IS ORDERED that DHS shall determine whether Claimant is entitled to a deduction from his gross income of \$30 due to a federal recoupment process. If it is determined that Claimant is entitled to the deduction, DHS shall recalculate Claimant's FAP budget from May 1, 2011, to the present and provide retroactive supplemental FAP benefits as appropriate. All steps shall be taken in accordance with DHS policies and procedures.



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

Date Signed: June 8, 2011

Date Mailed: June 8, 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.

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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:

