

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-33359
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: June 6, 2011
DHS County: Oakland (63-03)

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 June 6, 2011. Claimant appeared and testified at the hearing. [REDACTED]

[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. At all times relevant to this case, Claimant was a DHS customer receiving benefits from the FAP program.
2. In December 2010, Claimant's FAP benefits were \$348 per month.
3. Effective January 1, 2011, Claimant's Supplemental Security Income (SSI) was \$355, her Retirement, Survivors, and Disability Insurance (RSDI) benefits were \$304, her son's RSDI benefit was \$369, and her son received child support from his father of \$435. These four sources of income added together total a gross income of \$1,463 for FAP calculation purposes.

4. On January 1, 2011, DHS reduced Claimant's FAP benefits to \$154 per month.
5. Effective February 1, 2011, DHS reduced Claimant's FAP benefits to \$16 per month.
6. On January 10 and 31, 2011, Claimant filed Requests for Hearing 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 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.

The DHS' authority for its action in this case is BEM 500, "Income Overview," and BEM 503, "Income, Unearned." I find that these Items do not provide the formula for calculating FAP benefits and do not provide sufficient authority for the actions taken in this case.

Looking at the evidence in the record, I find the two budgets provided to substantiate the decreases in Claimant's FAP benefits in January and February are inadequate. The first budget has a countable income figure of \$1,561, and the second budget uses a countable income figure of \$1,491. However, at the hearing, DHS presented a countable income figure of \$1,463. The income amount presented at the hearing is lower than the amounts used in both budgets. Accordingly, I must send this case back for a recalculation of Claimant's countable income for January 2011.

While a recalculation may not result in a change in Claimant's benefits, I believe DHS' duty to protect client rights requires that benefits be calculated correctly. I cannot say that the benefits have been calculated correctly in this case. BAM 105, "Rights and Responsibilities."

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 countable income for Claimant for January 2011, and use the correct amount for Claimant's January 2011 and continuing 2011 FAP benefits. .

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 countable income for January 2011 and use the correct income amount in calculating Claimant's FAP benefits for January and continuing through 2011. DHS shall 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.

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:

