

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

IN THE MATTER OF:

[REDACTED]

Registration. No: 2011-33651
Issue Nos: 3002; 3015
Case No: [REDACTED]
Hearing Date: June 16, 2011
Washtenaw County DHS

Administrative Law Judge: Suzanne D. Sonneborn

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 March 21, 2011, and, after due notice, one was held on June 16, 2011. Claimant appeared at the hearing and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

ISSUE

In dispute was whether the Department properly reduced Claimant's Food Assistance Program (FAP) benefits.

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 was a recipient of FAP benefits in the amount of \$ [REDACTED] per month at all times relevant to this hearing.
2. In March 2011, the Department determined that Claimant's Supplemental Security Income (SSI) benefits were not included in his FAP budget. At that time, Claimant was receiving \$ [REDACTED] per month in SSI, plus \$ [REDACTED] per month in State SSI Payments (SSP). He was also receiving Family Independence Program (FIP) benefits totaling \$ [REDACTED] (Department Exhibits 1-8)
3. Claimant's total countable unearned income for FAP purposes was \$ [REDACTED] (Department's Exhibits 3, 8.)

4. On March 10, 2011, the department mailed Claimant a Notice of Case Action (DHS 1605) advising him that, effective April 1, 2011, his FAP benefits would be reduced from \$ [REDACTED] per month to \$ [REDACTED] per month. (Department Exhibits 9-10)
5. On March 21, 2011, Claimant filed a request for hearing, contesting the reduction of his monthly FAP benefits. (Claimant's Hearing Request)

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 reduced Claimant's monthly FAP benefits from \$ [REDACTED] per month to \$ [REDACTED] per month, effective April 1, 2011. From this determination, Claimant filed a request for hearing. 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 400.3001 through 400.3015. Agency policies pertaining to the FAP are found in the BAM, Bridges Eligibility Manual (BEM), and Reference Tables Manual (RTM).

In completing a FAP budget to determine eligibility or benefit level, the entire amount of countable and available income, both earned and unearned, is used. BEM 505, p 2; BEM 550, p 1. Countable income is defined as "income remaining after applying [applicable agency policy]." BEM 500, p 3; BEM 505, p 1. All income that is not specifically excluded is deemed countable income. BEM 500, p 3. Available income is that amount actually received or reasonably anticipated. BEM 505, p 1. Unearned income is income that is not "earned income." BEM 500, p 3. Examples include, but are not limited to certain funds received from SSI/SSP and FIP. See BEM 503, pp 2-32.²

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

² Supplemental Security Income (SSI) is a cash benefit to needy aged, blind and disabled persons. In Michigan, SSI includes a basic federal benefit and an additional

The Department determines FAP eligibility and benefit amount using: (1) actual income (income that was already received), and (2) prospective income (income amounts not received but expected). BEM 505, p 1. When the Department is made aware of, or the client reports, a change in income that will affect eligibility or benefit level, a FAP budget must be completed. BEM 505, p 7. Moreover, the Department must take action and issue proper notice to a client when an established income increase results in a FAP benefit decrease. See BEM 505, p 9.

For FAP budgeting purposes, gross countable income is reduced by a twenty percent earned income deduction (if earned income is present), and by a standard deduction determined by FAP group size. BEM 550, p 1; BEM 556, pp 2-3. The result of these reductions is the adjusted gross income.

In the present matter, it was undisputed that, following Claimant's approval for FAP benefits, the Department received information establishing that he was receiving SSI benefits in the amount of \$ [REDACTED] per month and SSP benefits of \$ [REDACTED] per month. In addition, Claimant was receiving FIP benefits that totaled \$ [REDACTED] including a \$ [REDACTED] per month recoupment amount from a prior overissuance (OI) determination. Thus, the total of all unearned income in this matter equaled \$ [REDACTED] + \$ [REDACTED] [SSP] + [REDACTED]³ Using this amount, the agency subtracted the standard deduction for a FAP group size of four (\$ [REDACTED] arriving at an adjusted gross income of \$ [REDACTED]

A client's excess shelter deduction, if any, is then subtracted from the adjusted gross income. To determine the excess shelter deduction, the client's actual shelter expenses (e.g., rent, mortgage, taxes, property insurance, etc.) are added to a heat/utility standard (currently \$ [REDACTED] – See RFT 255). From this total amount is subtracted the product of the client's adjusted gross income multiplied by fifty percent. The difference results in the adjusted excess shelter amount. See BEM 556, p 4.

Here, based on the information provided by Claimant and the above budgeting process, a \$ [REDACTED] excess shelter deduction was determined by the Department. Subtracting this amount from Claimant's adjusted gross income resulted in a net income of \$ [REDACTED]

Federal regulations found at 7 CFR 273. 10 provide standards for net income and corresponding amounts of household FAP benefits. In accordance with these regulations, the Department prepared income and issuance tables that are found at RFT 250 and 260. According to RFT 260, a client with a group size of four and a

amount paid with State funds – termed State SSI Payments (SSP). Bridges Policy Glossary (BPG), pp. 42, 43.

³ See Bridges Administrative Manual (BAM) 720, p. 7 and Bridges Eligibility Manual (BEM) 503, p. 11 regarding the inclusion of recoupment payments as income for Food Assistance Program (FAP) budgeting purposes.

determined monthly net income of \$ [REDACTED] is entitled to FAP benefits in the amount of \$ [REDACTED] per month. RFT 260, p. 7. The Department's benefit level determination in this matter was therefore correct.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge decides that the Department acted in accordance with established policy in reducing Claimant's monthly FAP benefit level from \$ [REDACTED] per month to \$ [REDACTED] per month, effective April 1, 2011.

The Department's action is AFFIRMED.

It is SO ORDERED.

Suzanne _____/s/
Department

D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
of Human Services

Date Signed: June 29, 2011

Date Mailed: June 29, 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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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.

SDS/alc

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