

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201133920
Issue No. 3015
Case No. [REDACTED]
Hearing Date: June 9, 2011
Oakland County DHS (02)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on June 9, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefits effective 12/2010 due to excess income.

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP benefit recipient.
2. Claimant was part of a household group of four persons.
3. No persons in Claimant's household were senior (over age 60), disabled or a disabled veteran.
4. Claimant's FAP benefits were scheduled for redetermination by the end of 11/2010.
5. Claimant received biweekly gross employment income of [REDACTED] on 9/22/10 and [REDACTED] 20 on 10/6/10.

6. Claimant's son received biweekly gross employment income of [REDACTED] on 9/10/10, [REDACTED] on 9/24/10 and [REDACTED] on 10/8/10.
7. DHS redetermined Claimant's FAP benefits and determined Claimant's group had excess income.
8. On 11/9/10, DHS mailed a Notice of Case Action (Exhibit 1) informing Claimant that FAP benefits would stop for 12/2010 based on excess income.
9. On 2/22/11, Claimant requested a hearing disputing the FAP benefit termination.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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). DHS (formerly known as the Family Independence Agency) administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

The undersigned will refer to the DHS regulations in effect as of 11/2010, the month of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

BAM 600 contains the DHS policy for administrative hearings including the client deadline to file a hearing request. Clients have 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 at 4. There is evidence to determine that Claimant did not timely request a hearing. DHS did not raise the issue prior to or at the administrative hearing. The undersigned is not permitted to dismiss the hearing request, but doing so would deprive Claimant an opportunity to respond on the issue. Thus, the merits of Claimant's request shall be addressed.

Claimant questioned the validity of the DHS decision terminating her FAP benefits effective 12/2010. BEM 556 outlines the proper procedures for calculating FAP benefits.

The first step in the process is to calculate the FAP benefit group's gross monthly income so a gross income test can be performed. The gross income test is only applicable for groups without a senior, disabled or disabled veteran (SDV) member. BEM 556 at 3. It was not disputed that Claimant's FAP group had no SDV members; thus, the gross income test must be performed.

If the group's monthly gross income exceeds DHS monthly gross income limits then the group is automatically denied FAP eligibility. BEM 556 at 3. The gross income test only considers gross income; thus, child support payments, rent, mortgage, utilities and other expenses are not a factor in the gross income test outcome.

For non-child support income, DHS is to use past income to prospect income for the future unless changes are expected. BEM 505 at 4. Specifically, DHS is directed to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. *Id.* For starting income, DHS is to use the best available information to prospect income for the benefit month. *Id.* at 6.

DHS converts biweekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 at 6. DHS is to count the gross employment income amount. BEM 501 at 5.

Averaging Claimant's biweekly gross income and multiplying it by 2.15 results in a monthly gross income of [REDACTED]. Averaging Claimant's son's biweekly gross income and multiplying it by 2.15 results in a monthly gross income of [REDACTED]. The group's total gross employment income is [REDACTED].

The gross income limit for a group of four persons is [REDACTED] RFT 250 at 1. The FAP benefit group's gross income exceeded the gross income limits which properly resulted in termination of FAP benefits based on income-eligibility.


Claimant stated that her job as a substitute teacher resulted in very unstable income. Claimant credibly testified that her income varied substantially depending on the month. Though there was some evidence that DHS had notice of the instability of Claimant's income, the undersigned is not inclined to fault DHS for prospecting Claimant's income based on check stubs that Claimant submitted. It was not disputed that Claimant never verified any income fluctuation that would have resulted in a different DHS decision. It is found that DHS properly terminated Claimant's FAP benefits based on excess income. As discussed during the hearing, Claimant can always reapply for FAP benefits and is encouraged to do so if there is still a need for FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FAP benefits due to excess

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income. The actions taken by DHS are AFFIRMED.


Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

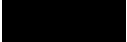
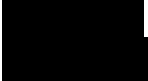
Date Signed: June 14, 2011

Date Mailed: June 14, 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 of the rehearing decision.

CG/ctl

cc: 
Oakland County DHS (02)

Christian Gardocki
Administrative Hearings