

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201135773
Issue Nos: 3002; 3003
Case No: [REDACTED]
Hearing Date: June 28, 2011

Mecosta 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 May 23, 2011, and, after due notice, one was held on June 28, 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 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. At all times relevant to this matter, Claimant was receiving FAP benefits.
2. Claimant was part of a FAP group size of four. (Department's Exhibit D-1; Department's Exhibit D-2.)
3. Sometime prior to May 18, 2011, Claimant changed employment and informed the Department that she was working 20-25 hours per week, at [REDACTED] per hour. She provided a paycheck stub for the pay period ending March 11, 2011, indicating a gross pay amount of [REDACTED]. Based on this information, the agency recalculated Claimant's FAP budget determining that her standard monthly earned income was [REDACTED] and that she was eligible to receive [REDACTED] in

benefits, effective June 1, 2011. (Department's Exhibit D-1; Department's Exhibit D-4; Department's Exhibit D-5.)

4. The Department informed Claimant of this determination on May 18, 2011. (Department's Exhibit D-5.)
5. From this action, Claimant filed a request for hearing to contest the reduction in her FAP benefits. (Claimant's hearing request, dated May 23, 2011.)
6. Between the date of Claimant's request for hearing and the date of hearing, the Department obtained information from Claimant's employer establishing that her monthly earned income was actually higher than the amount originally calculated by the agency.
7. The information obtained by the Department demonstrated that Claimant received gross pay during May 2011 of [REDACTED], [REDACTED], and [REDACTED], respectively. Based on these amounts, Claimant's standard monthly earned income was computed to be [REDACTED]. (Department's Exhibit D-2.)
8. This computation resulted in a reduction to Claimant's FAP benefits from [REDACTED] per month to [REDACTED] per month, effective July 1, 2011. (Department's Exhibit D-2; Department's Exhibit D-3.)
9. The Department informed Claimant of this result on June 2, 2011. (Department's Exhibit D-6.)
10. Both determinations pertaining to Claimant's FAP benefits were addressed at hearing.

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

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

Here, the Department reduced Claimant's monthly FAP benefits to [REDACTED] per month, effective June 1, 2011. From this determination, Claimant filed a request for hearing. A timely notice of hearing was subsequently issued. Between the date of Claimant's hearing request and the date of hearing, the Department reduced her FAP benefits even further to [REDACTED].

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, 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 (RFT). The goal of the FAP is to ensure sound nutrition among children and adults. BEM 230A.

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 the Family Independence Program (FIP), Medicaid (MA), State Disability Assistance (SDA), Child Development and Care (CDC), Social Security benefits (RSDI/SSI), unemployment compensation, workers' compensation, veteran's benefit, child support, alimony, and educational assistance payments. BEM 503, pp 2-32.

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, Claimant notified the Department that she changed employers, and provided the Department with a pay stub indicating an hourly income of [REDACTED] and a gross pay amount of [REDACTED]. Claimant informed the agency that she would be working 20-25 hours per week. Based on this information, the Department computed a standard monthly earned income of [REDACTED], plus [REDACTED] per month in unearned

income, for a total monthly income amount of [REDACTED].² After accounting for the earned income deduction [REDACTED] and the standard deduction of [REDACTED] (see RFT 255), Claimant's adjusted gross income was [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 housing 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, in accordance with the information provided by Claimant and the above budgeting process, a [REDACTED] excess shelter deduction was determined by the Department – based on actual housing expenses of [REDACTED], plus the [REDACTED] heat/utility standard. 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 determined monthly net income of [REDACTED] is entitled to FAP benefits in the amount of [REDACTED] per month. RFT 260, p 11. The Department's benefit level determination on May 18, 2011, was therefore correct.

Between May 18, 2011, and the date of hearing in this matter, the Department obtained information from Claimant's employer indicating that her standard monthly earned income was higher than [REDACTED]. This information demonstrated that Claimant received gross pay in May 2011 of [REDACTED], [REDACTED], and [REDACTED], respectively. Based on these amounts, Claimant's standard monthly earned income was computed to be [REDACTED]. See BEM 505, pp 1, 6. Adding the [REDACTED] in undisputed, unearned income, her total monthly income was [REDACTED]. After accounting for the earned income deduction [REDACTED] and the standard deduction of [REDACTED], Claimant's adjusted gross income was [REDACTED]. Using the increased amount of adjusted gross income, the same [REDACTED] in actual housing expenses, and the [REDACTED] heat/utility standard, Claimant was entitled to an excess shelter deduction of [REDACTED]. Thus, her net monthly income was [REDACTED].

Again, based on federal regulations and RFT 260, a client with a group size of four and a determined monthly net income of [REDACTED] is entitled to FAP benefits in the amount of [REDACTED] per month. RFT 260, p 16. The Department's benefit level determination on June 2, 2011, was therefore correct.

² The Department testified at hearing that Claimant's unearned income of [REDACTED] per month was from retirement, survivors, and disability insurance (RSDI) benefits. The source and amount of this unearned was not in dispute.

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 to [REDACTED] per month, effective June 1, 2011, and again to [REDACTED] per month, effective July 1, 2011.

The Department's action is AFFIRMED.

It is SO ORDERED.

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

Date Signed: July 1, 2011

Date Mailed: _____

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/cr

cc:

[REDACTED]

