

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201138616
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: July 20, 2011
Macomb County DHS (12)

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 July 20, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly determined Claimant's income in determining Claimant's Food Assistance Program (FAP) benefit eligibility for 6/2011.

FINDINGS OF FACT

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

1. On 5/31/11, Claimant applied for FAP benefits.
2. Claimant was part of a household, and FAP benefit group that included herself and her two children.
3. Claimant's two children received a combined \$1376/month in Supplemental Security Income (SSI).
4. Claimant's children each received the following child support income for the following months (see Exhibit 2): \$247 for 3/2011, \$247 for 4/2011 and \$123.50 for 5/2011.

5. DHS determined the FAP benefit group income as \$1786 (see Exhibit 1) for 6/2011.
6. On 6/7/11, DHS determined Claimant's FAP benefit eligibility as \$151/month based, in part, on the \$1786 calculated income for the FAP benefit group.
7. On 6/16/11, Claimant reported to DHS that her child support income stopped because the payer stopped receiving unemployment income.
8. On 6/16/11, Claimant requested a hearing to dispute her 6/2011 FAP benefit determination solely on the basis of how DHS calculated the FAP benefit group income.

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 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 6/2011, 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/>.

In the present case, Claimant disputed the DHS determined FAP benefit for 6/2011. Claimant's dispute rested solely on whether DHS calculated the group's child support income correctly.

To prospect child support income, DHS is to use the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505 at 3. It was not disputed that DHS calculated the proper child support income average (\$205) from 3/2011-5/2011. Claimant contended that DHS should not have budgeted Claimant's child support income at all because the income had stopped.

Child support payments are dependent on whether the payer has the ability or willingness to pay the support. Neither DHS nor the payee can typically verify when the payer will start or stop support payments. The only realistic documentary evidence that DHS or a payee could have to predict child support payments is the payment history.

In the present case, as of the date that DHS determined Claimant's 6/2011 FAP benefit eligibility (6/7/11), the only evidence DHS had to prospect Claimant's child support income was the payment history. It was not disputed that DHS properly averaged the support payments Claimant received from 3/2011-5/2011. The undersigned cannot find fault with DHS for properly averaging Claimant's child support income from 3/2011-5/2011, when they realistically had no indication that any change occurred in the income.


It could be reasonably contended that DHS had notice of a change in support income because the payment history showed two payments of \$123.50 for 3/2011 and 4/2011 but only one payment of \$123.50 for 5/2011, for each of Claimant's two children. Thus, the one payment in 5/2011 could have been construed as a verification that the support income stopped. Due to the frequently erratic nature of child support income, the undersigned is not inclined to impose any obligation on DHS concerning child support income without some other supporting evidence. It is found that DHS properly determined Claimant's child support income in determining Claimant's FAP benefit eligibility for 6/2011.

Claimant has a more persuasive argument for purposes of her 7/2011 FAP benefit eligibility. It was not disputed that on 6/16/11, Claimant reported to DHS that the payer of the child support income had no income and that she expected the 5/2011 child support payment to indefinitely be her last payment. The undersigned would be inclined to find that as of 6/16/11, DHS had knowledge that a change occurred in Claimant's child support income, and the payment history verified the change.

However, for purposes of Claimant's 6/16/11 hearing request, the undersigned does not have the authority to order DHS to redetermine Claimant's 7/2011 FAP benefits. The undersigned may only consider what DHS did or should have done at the time of Claimant's hearing request. As of 6/16/11, the date of Claimant's hearing request, DHS had just learned of the change and had not taken any action on the reported change. As of 6/16/11, DHS also had not been given any time to make any change in Claimant's support income. Thus, the undersigned lacks the jurisdiction to determine the issue of Claimant's dispute concerning the child support income calculation for 7/2011. As discussed during the hearing, Claimant may still request a hearing on a DHS failure to update her child support income as it pertains to FAP benefit eligibility for 7/2011 or future months.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's child support income for purposes of Claimant's 6/2011 FAP benefit eligibility. The actions taken by DHS are AFFIRMED.


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

Date Signed: July 22, 2011

Date Mailed: July 22, 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/hw

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