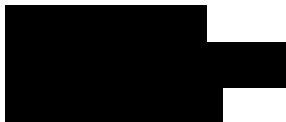


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Registration. No: 2011-40325
Issue Nos: 3002; 3003
Case No: [REDACTED]
Hearing Date: July 21, 2011
St. Clair 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 1999 AC, R 400.903. Claimant requested a hearing on June 15, 2011, and, after due notice, one was held on July 21, 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 calculated Claimant's Food Assistance Program (FAP) benefits allotment for the period in issue.

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 in this matter, Claimant was receiving FAP benefits.
2. Based on earned income information received by the Department, a new FAP budget was computed for Claimant. (Department's Exhibits, D-6; D-7; D-13.)
3. On June 7, 2011, the Department notified Claimant that his monthly FAP benefits were reduced to [REDACTED] per month, effective July 1, 2011. (Department's Exhibit D-1.)
4. From the Department's FAP determination, Claimant filed a request for hearing, contesting the decrease in his monthly benefits. (Claimant's hearing request, dated June 15, 2011.)

CONCLUSIONS OF LAW

The hearing and appeals process for applicants and recipients of public assistance in Michigan is governed by 1999 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, using employment income information provided through the verification process, the Department recomputed Claimant's FAP benefits budget determining that he was eligible to receive benefits of ██████ per month. 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, 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). The goal of the FAP is to ensure sound nutrition among children and adults. BEM 230B, p.1.

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. Earned income means income received from another person or organization, or from self-employment, for duties that were performed for compensation or profit. BEM 500, p. 3. Wages are considered earned income for FAP benefits budgeting purposes. BEM 501, p. 5. Unearned income is all income that is not earned. BEM 500, p. 3.

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.

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

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; RFT 255. The result of these reductions is the adjusted gross income.

In the present matter, it was undisputed that Claimant received earned income of [REDACTED] per month for the budget period in issue. Using this amount, the agency subtracted the twenty percent earned income deduction ([REDACTED]) and the standard deduction for a FAP group of one ([REDACTED]), arriving at an adjusted gross income of [REDACTED]).

An 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) 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 unless the group does not contain a senior, disabled, or veteran (SDV) eligible member. See BEM 556, p. 4. For a non-SDV group, it is necessary to use the excess shelter maximum found in RFT 255.

Here, Claimant reported shelter expenses totaling [REDACTED]. It appeared that the Department accepted this amount as reported. (See Department's Exhibits D-2; D-9.) The [REDACTED] heating/utility standard also applied in determining a total shelter expense of [REDACTED]). Fifty percent of Claimant's adjusted gross income was [REDACTED]. Subtracting this amount ([REDACTED]) from the total shelter expense [REDACTED] resulted in an excess shelter deduction of [REDACTED]. But, Claimant's FAP group did not contain an SDV eligible member. Therefore, the excess shelter maximum found in RFT 255 ([REDACTED]) was used. Claimant's net income for the period in issue was [REDACTED]).²

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 one and a 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

² These calculations were based on the rounding up and rounding down permitted under BEM 556.

Based on the above findings of fact and conclusions of law, the Administrative Law Judge decides that the Department properly determined that Claimant was eligible for FAP benefits in the amount of [REDACTED] per month, effective July 1, 2011.

The Department's action is AFFIRMED.

It is SO ORDERED.

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

Date Signed: July 22, 2011

Date Mailed: July 25, 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.

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/sc

cc:

[REDACTED]