

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201143625
Issue No: 3002
Case No: [REDACTED]
Hearing Date: August 30, 2011
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 August 30, 2011. The claimant personally appeared and provided testimony.

ISSUE

Whether the department properly determined the amount of the claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. The claimant submitted a redetermination for her FAP, Medical Assistance (MA), and Child Development and Care (CDC) benefits on March 28, 2011. (Department Exhibit 4).
2. Based upon the information provided at redetermination, the claimant was sent a notice of case action (DHS 1605) on April 23, 2011 indicating that the claimant's CDC case would be closing due to excess income and that the claimant's FAP benefits would be reduced to [REDACTED]. (Department Exhibit 3).
3. The claimant filed a hearing request on April 29, 2011.

CONCLUSIONS OF LAW

As a preliminary matter, the claimant indicated in her hearing request that she was requesting a hearing regarding her CDC benefits as well her FAP benefits. MAC 400.903 lays out instances where recipients of assistance have a right to an administrative hearing within the Michigan DHS. This rule specifies when an opportunity for a hearing shall be granted:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and

to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. MAC 400.903(1).

At the time of the hearing, the claimant testified that she understood the reason that the department terminated her CDC benefits and stated that she felt that the department used the proper numbers in their income calculations and acted in accordance with policy in terminating her benefits. Therefore, it is not necessary for this Administrative Law Judge to make a determination regarding the CDC portion of the claimant's request.

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) 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). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM 500. The FAP program provides a deduction from earned income of 20% and a deduction for the cost of child care when necessary to enable a FAP household member to work. A standard deduction from income of \$132 is allowed. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$300 for non-senior/disabled/veteran households. BEM 500 and 554; Program Reference Manual, Table 255; 7 CFR 273.2.

In the case at hand, the claimant stated that she felt that her FAP benefits were not properly calculated at the redetermination because the department did not give the claimant a deduction for child care costs. When the claimant informed the department of this omission, the department did run another budget for the claimant that affected benefits for the month of June (see Department Exhibit 2), but benefits for the month of May were not affected. The budget provided by the department for the month of May (see Department Exhibit 5) does show that there was no dependant care deduction included in the budget. Yet when the claimant submitted her redetermination, she did indicate that she was paying child care expenses (see Department Exhibit 4, page 3). Furthermore, the claimant provided the department with verification of said expenses (see Department Exhibit 7). Therefore, this Administrative Law Judge finds that the department should have used the claimant's child care expenses in determining her FAP budget for the month of May, 2011.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department should have included the claimant's child care expenses in her FAP budget for the month of May, 2011.

Accordingly, the department's actions are **REVERSED**.

It is HEREBY ORDERED that the department shall recalculate the claimant's FAP budget for the month of May, 2011, include the costs of child care expenses, and if applicable grant the claimant any retroactive benefits due and owing that the claimant is otherwise eligible to receive.

_____/s/_____
Christopher S. Saunders
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 15, 2011

Date Mailed: September 16, 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.

2011-43625/CSS

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 date of the rehearing decision.

CSS/cr

cc:

