

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201145544
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: August 24, 2011
Wayne County DHS (76)

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 August 24, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED] Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly determined Claimant's eligibility for Food Assistance Program (FAP) benefits for 6/2011 and 7/2011.

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 6/20/11, Claimant applied for FAP benefits.
2. Claimant was part of a two person household that included Claimant and his spouse.
3. Claimant's spouse received the following biweekly gross employment income on the following dates: \$485.55 on 6/9/11 and \$452.35 on 6/23/11.
4. Claimant's spouse stopped employment beginning 7/2011.

5. Claimant received the following weekly gross employment income on the following dates: \$380 on 6/3/11, \$228 on 6/10/11, \$380 on 6/17/11 and \$332.50 on 6/24/11.
6. Claimant also received the following unemployment compensation (UC) payments for 6/2011 and 7/2011: \$158 on 6/28/11 and \$265 on 7/12/11.
7. Claimant had a monthly housing obligation of \$950.
8. On 7/22/11, DHS determined Claimant to be eligible for \$0 in FAP benefits for the month of 6/2011.
9. On 7/22/11, DHS determined Claimant to be eligible for \$105 in FAP benefits for the month of 7/2011.
10. On 7/27/11, Claimant requested a hearing to dispute the FAP benefit issuances for 6/2011 and 7/2011.

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 7/2011, 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 a \$0 FAP benefit issuance for 6/2011 and a \$105 FAP benefit issuance for 7/2011. Claimant's primary reason for requesting a hearing was that he received more FAP benefits in prior months and he could not understand why his FAP benefits were less when he had less income than in prior months. Claimant's reason for requesting a hearing is understandable, however, a determination of the correctness of a FAP benefit issuance is independent of FAP benefit issuances from previous months. In other words, what Claimant received in a prior month has no impact on whether DHS properly determined the 6/2011 and 7/2011 FAP benefit eligibility. BEM 556 outlines the proper procedures for calculating FAP benefits. The analysis will begin with the 6/2011 FAP benefit issuance.

DHS is to count the gross employment income amount. BEM 501 at 5. It was not disputed that Claimant's spouse received biweekly employment income payments. The average gross employment payment was \$468.95.

DHS converts biweekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 at 6. Multiplying Claimant's spouse's average countable biweekly income by 2.15 results in a monthly countable income amount of \$1008.

DHS converts weekly non-child support income into a 30 day period by multiplying the income by 4.3. BEM 505 at 6. Claimant's average weekly gross employment income was \$330.12. Multiplying Claimant's average countable weekly income by 4.3 results in a monthly countable income amount of \$1419.

Adding Claimant's and Claimant's spouse's countable employment income results in a total employment income of \$2427. DHS only counts 80% of a FAP member's timely reported monthly gross employment income in determining FAP benefits. Applying the 20% deduction to the household income creates a countable monthly income of \$1941 (dropping cents).

Claimant received a single UC payment for 6/2011; the amount was for \$156. DHS converted the single payment to a monthly amount by multiplying it by 2.15; this was an error by DHS. There was no reason to convert a single payment into a monthly amount; the single payment is the monthly amount. Adding the unemployment income to the countable employment income creates a countable income of \$2097.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 at 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, DHS considers the following expenses: child care and excess shelter (housing and utilities) up to a capped amount and court ordered child support and arrearages paid to non-household members. For groups containing SDV members, DHS also considers the medical expenses for the SDV group member(s) and the full excess shelter expense. Claimant's FAP benefit group is not an SDV group.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from Claimant's monthly countable income. Claimant did not claim to have any of these expenses.

Claimant's FAP benefit group received a standard deduction of \$141. RFT 255. The standard deduction is given to all FAP benefit groups though the amount varies based on the benefit group size. The standard deduction is also subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$1956.

It was not disputed that Claimant had a housing obligation of \$950/month. DHS gives a flat utility standard to all clients. BPB 2010-008. The utility standard of \$588 (see RFT 255) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$588 amount. The total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit (\$588); this amount is found to be \$1538.

DHS only credits FAP benefit groups with what DHS calls an "excess shelter" expense. This expense is calculated by taking Claimant's total shelter obligation and subtracting half of Claimant's adjusted gross income. Claimant's excess shelter amount is found to be \$560. However, because Claimant's FAP benefit group does not have an SDV member, Claimant's excess shelter amount is capped; the current cap amount is \$458. RFT 255 at 1.

The FAP benefit group's net income is determined by taking the group's adjusted gross income (\$1956) and subtracting the allowable excess shelter expense (\$458). The FAP benefit group net income is found to be \$1498. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's FAP benefit amount is found to be \$16.

However, Claimant's 6/2011 must be prorated because Claimant applied on 6/20/11. DHS provides the following guidance on prorating benefits:

Multiply the monthly benefits by the number of days remaining in the month including the application date. Divide this amount by the total number of days in the month. Drop cents. If the amount is less than \$10.00, the FAP group will not receive an initial benefit. BEM 556 at 5.

Based on the above calculation, the prorated amount of FAP benefits is \$5 (dropping cents). As the amount is less than \$10, Claimant is entitled to a 6/2011 issuance of \$0, the same as calculated by DHS.

The 7/2011 FAP benefit analysis has a significant change. It was not disputed that Claimant's spouse was not employed for 7/2011; thus, her income would be excluded from the above calculation. Claimant's employment income of \$1419 following the 20% deduction results in a countable income of \$1135.

Claimant's UC income also changed. DHS prospectively the \$156 from 6/2011 as an ongoing biweekly payment. Though Claimant's UC income for 7/2011 was actually \$265, the undersigned does not find fault with projecting the UC income based on the most recent 6/2011 payment. Multiplying the payment by 2.15 results in a UC income of \$335.


201145544/CG

Adding the UC and countable employment results in a total countable income of \$1470. Subtracting the standard deduction of \$141 creates an adjustable gross income of \$1329.

The excess shelter changes to \$874 but remains capped at \$458. Subtracting the excess shelter from the adjusted gross income creates a net income of \$871. The proper FAP benefit issuance for a group of two persons with a net income of \$871 is \$105, the same amount calculated by DHS.

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 FAP benefit issuances for 6/2011 and 7/2011. The actions taken by DHS are AFFIRMED.


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

Date Signed: August 26, 2011

Date Mailed: August 26, 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.

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