

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201146867
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: September 1, 2011
Macomb County DHS (36)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 September 1, 2011. The Claimant appeared and testified. [REDACTED], ES appeared and testified on behalf of the Department.

ISSUE

Whether the Department correctly reduced the Claimant's FAP benefits as a result of his RSDI income.

FINDINGS OF FACT

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

1. The Claimant was an ongoing FAP recipient and received \$200 in FAP benefits per month until May 1, 2011 when the Department recomputed his FAP budget and included RSDI income in the amount of \$882 per month. Exhibit 4.
2. The Claimant confirmed the RSDI income amount as correct.
3. The Department relied on the SOLQ report, which provided that the Claimant began receiving RSDI benefits in August 2009 and Medicaid Part B coverage in August 2011. Exhibit 1.
4. The Medicaid Part B premium of \$115.40 is deducted from Claimant's RSDI, as of August 2011. Claimant Exhibit 1.

5. The Department issued a Notice of Case Action on April 5, 2011 and reduced the Claimant's FAP benefits for that month to \$16 per month. The FAP benefits used \$1086 as the unearned income figure. Exhibit 2.
6. The Claimant was issued FAP benefits for June 2011 and August 2011 using the RSDI income of \$882 per month and a shelter allowance of \$218. Exhibits 4B and 4C.
7. The Claimant's budget for July 2011 utilized RSDI income of \$1086 and calculated benefits at \$16 per month and an excess shelter amount of \$116. Exhibit 4C.
8. Prior to Department including the RSDI income when calculating the FAP benefits, the Claimant received FAP benefits of \$200 per month. Exhibits 4 and 4E.
9. The Claimant currently receives \$79 per month, as of August 1, 2011. Exhibit 4D.
10. The Claimant is a FAP group of 1 member and pays no rent. RSDI is the Claimant's only income. The Claimant is an SDV group because he receives RSDI.
11. The Claimant requested a hearing on July 14, 2011, protesting that the Department incorrectly calculated his income when computing his food assistance.

CONCLUSIONS OF LAW

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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).

In this case the Claimant's FAP benefits have fluctuated due to the recalculation of benefits to include unearned income from RSDI of \$882 per month. Additionally, the Claimant now also has a Medicaid Part B premium that has been applied since August, which reduces the Claimant's adjusted gross income due to credit for the premium as a medical expense. The August benefit calculation and the FAP benefit amount of \$79 as

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determined by the Department is correct and is supported by the evidence presented at the hearing.

In calculating August 2011 benefits, the Department correctly took the gross income of \$882 and deducted the standard deduction applicable to the Claimant (\$141) and credited the Claimant \$80 for the Medicaid Part B premium to determine the Claimant's adjusted gross income \$661. ($\$882 - \$141 - \$80 = \661). BEM 554.

The excess shelter deduction, which is a credit to reduce net income to take into account housing costs, was correctly calculated to take into account the cost of housing expenses. The Claimant pays no rent, but is entitled to a utility allowance of \$588 applied to all FAP recipients. One half the adjusted gross income is deducted from the housing expense (utility allowance) to determine the excess shelter deduction. ($\$661 \times .50 = \330) ($\$588 - \$330 = \$258$). Exhibit 1 and Exhibit D. The Department's determination that the Claimant was entitled to receive \$79, in August 2011, \$79 in FAP benefits is correct.

The FAP benefit calculation for July 2011 is incorrect in two respects. No basis was presented at the hearing for the unearned income amount used by the Department of \$1086. Additionally, there is no basis for the excess shelter deduction of \$116, as the gross income amount is not supported by the evidence produced by the Department at the hearing. Therefore, the July 2011 benefit must be recalculated and should use the \$882 RSDI income amount. Exhibit 5 and Exhibit 4 C.

The budgets for May and June 2011 are correct as calculated, as they use the correct unearned income amount of \$882. The Department correctly used a standard deduction of \$141 given to all one-member FAP groups and thus the adjusted gross income of \$741 is correct. ($\$882 - \$141 = \741). The excess shelter deduction, which is a credit to reduce net income to take into account housing costs, was correctly calculated to take into account the cost of housing expenses. The Claimant pays no rent, but is entitled to a utility allowance of \$588 applied to all FAP recipients. One half the adjusted gross income is deducted from the housing expense (utility allowance amount) to determine the excess shelter deduction. ($\$741 \times .50 = \370) ($\$588 - \$370 = \$218$). Exhibit 1. Exhibits 4 A and 4B. The budgets as calculated by the Department are correct and the benefit amount of \$43 for these months is also correct.

Based upon the evidence presented, the Department correctly calculated some of the monthly FAP benefit amounts, but incorrectly calculated July 2011.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the Department correctly calculated the Claimant's FAP benefits for May,

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June and August 2011. Therefore, its determination of FAP benefit amounts for these months is AFFIRMED.

The Department incorrectly calculated the Claimant's FAP benefits for July 2011 and its determination in that regard is REVERSED.

Accordingly it is ORDERED:

1. The Department shall initiate and recalculate the FAP benefits for July 2011 using the correct unearned income of \$882.
2. The Department shall issue a supplement to the Claimant for FAP benefits he was otherwise entitled to receive, in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: September 9, 2011

Date Mailed: September 9, 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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