

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201148482
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: September 15, 2011
Wayne County DHS (35)

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 September 15, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly determined Claimant's Food Assistance Program (FAP) benefits effective 8/2011 as \$194/month.

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP benefit recipient.
2. Claimant was a disabled individual part of a household size of one.
3. Claimant received two monthly gross Retirement, Survivors, Disability Insurance (RSDI) payments of \$395.10 and \$329.50.
4. Claimant was responsible for a \$175/month housing obligation and a \$97/month Medicare premium payment.
5. On an unspecified date, DHS determined Claimant's eligibility for FAP benefits as \$194/month effective 8/2011.

6. On 7/19/11, Claimant requested an administrative hearing to dispute the FAP benefit issuance of \$194/month.

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 estimated 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 amount of FAP benefits for 3/2011. Claimant's primary argument was that she failed to understand how her FAP benefits could change for 8/2011 when she received more FAP benefits in prior months and her circumstances had not changed.

The correctness of Claimant's 8/2011 benefit issuance is independent of any other benefit issuances made by DHS. In other words, whatever Claimant received in FAP benefits for one month has no bearing on what Claimant is entitled to for a different month. The undersigned will consider the correctness of the 8/2011 FAP benefit determination based on DHS regulations, not on what changed for Claimant from a previous FAP benefit month. BEM 556 outlines the proper procedures for calculating FAP benefits.

It was not disputed that Claimant received \$724 (dropping cents) in total gross RSDI. Claimant pointed out that one of her RSDI payments is reduced by \$97 due to an obligation for a Medicare premium. For all programs, the gross amount of RSDI is countable income. BEM 503 at 20. Thus, the proper amount to budget is the RSDI amount (\$724) prior to the reduction of the Medicare premium. It should be noted that Claimant will receive credit elsewhere in the FAP budget for paying the Medicare premium.

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. It was not disputed that Claimant is a disabled individual and therefore part of an SDV group.

Verified child support and day care expenses (medical expenses for SDV groups) are subtracted from Claimant's monthly countable income to determine Claimant's adjusted gross income. Claimant's \$97/month Medicare premium was factored. DHS assesses a \$35 copayment for medical expenses which reduces the allowable medical expenses to \$62/month. Subtracting this amount from the countable income creates a running countable income of \$662

Claimant's one-person 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 \$521.

It was not disputed that Claimant is responsible for a \$175/month shelter obligation. 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 \$763.

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 \$503 (rounding up).

Claimant's net income is determined by taking Claimant's adjusted gross income (\$521) and subtracting the allowable excess shelter expense (\$503). Claimant's net income is found to be \$18. 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 \$194, the same amount calculated by DHS. It is found that DHS properly determined Claimant's 8/2011 FAP benefit issuance.

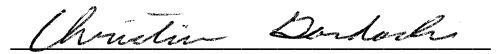
It should be noted that Claimant may have a better argument to dispute her Medical Assistance benefits. It is surprising that Claimant would be responsible for a Medicare premium based on her monthly income. This decision may not address the issue because it was not the subject of Claimant's hearing request. However, Claimant is

201148482/CG

encouraged to seek an administrative remedy if she feels that DHS is improperly failing to pay for Claimant's Medicare premium.

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 benefits for 8/2011. The actions taken by DHS are AFFIRMED.



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

Date Signed: September 16, 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.

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

cc:

