

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201149763
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: September 28, 2011
Oakland County DHS (03)

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 28, 2011 from Detroit, Michigan. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS erred in determining Claimant's eligibility for Food Assistance Program (FAP) benefits for 4/2011 or 5/2011.

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 4/18/11, Claimant applied for FAP benefits.
2. Claimant was part of a household of two persons.
3. Claimant received \$1602/month in disability payments.
4. Claimant received \$415/month in child support payments.
5. Claimant is responsible for a monthly mortgage which is paid by her mother.

6. On an unspecified date, DHS approved Claimant for \$0 in 4/2011 pro-rated FAP benefits and \$16 in ongoing FAP benefits effective 5/2011.
7. On 5/9/11, Claimant requested a hearing to dispute FAP benefit issuances for 4/2011 and 5/2011.

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 controlling DHS regulations are those that were in effect as of 5/2011, 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 FAP benefit issuances for 4/2011 and 5/2011. Claimant did not raise any specific disputes concerning why she believed the FAP benefits were incorrectly calculated. DHS provided budgets for 4/2011 and 5/2011 (see Exhibits 1-6) and Claimant was asked about each of the figures used in the DHS FAP benefit calculations.

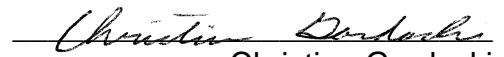
For the 4/2001 FAP benefit calculation, Claimant only questioned a housing expense amount of \$129/month. Claimant testified that her housing expense was \$1273.23 but conceded that her mother made the payments for her. DHS does not allow the budgeting of any expense if the entire expense is directly paid by an agency or someone outside of the group. BEM 554 at 1. As Claimant's housing expenses is entirely paid by her mother, a member outside of her FAP benefit group, DHS properly did not give Claimant for the expense. Though DHS could not justify how \$129 was determined as the proper amount for housing expense, the proper amount was \$0, an amount less than what DHS budgeted. Claimant is not entitled to a remedy based on a DHS error which could only have resulted in an over-issuance of FAP benefits.

Similarly, Claimant conceded having \$2017 in total income in 4/2011. DHS budgeted \$1602 in unearned income. Again, DHS erred but the budgeting of less income than what Claimant received is an error in Claimant's favor which would not justify an administrative remedy.

In 5/2011, the \$2017 budgeted for Claimant's income was confirmed as correct. The same was true for the \$1273.23 in housing expenses credited to Claimant. Claimant did not object to any other factor that would have affected her FAP benefits for 4/2011 or 5/2011. It is found that Claimant failed to establish any error by DHS in determining her FAP benefit issuance for 4/2011 and 5/2011 which would justify an administrative remedy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant is not entitled to an administrative remedy concerning her FAP benefit eligibility for 4/2011 and 5/2011. The actions taken by DHS are AFFIRMED.


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

Date Signed: October 4, 2011

Date Mailed: October 4, 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:



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