

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-5034
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 8, 2010
Wayne County DHS (43)

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 December 8, 2010. The claimant appeared and testified; [REDACTED] and [REDACTED] also appeared and testified on behalf of Claimant. [REDACTED] also appeared as a translator for Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly calculated Claimant's Food Assistance Program (FAP) benefits for 11/2010 based on a termination of Claimant's Supplemental Security Income (SSI) and a finding that one of Claimant's FAP members was not a citizen.

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP benefit recipient.
2. In 10/2010, DHS determined that Claimant was eligible for \$162 in FAP benefits.
3. On 10/11/10, Claimant reported that she would no longer receive SSI benefits based on a Social Security Administration determination that Claimant did not meet the program's citizenship requirements.

4. DHS subsequently requested verification of citizenship for all persons within Claimant's household and FAP benefits group.
5. Claimant responded by verifying citizenship for three of the four FAP group members.
6. On an unspecified date, DHS determined that Claimant was entitled to \$188/month in FAP benefits beginning 12/2010 based on the updated information concerning termination of Claimant's SSI benefits and the finding that one of Claimant's FAP benefit members had an unverified citizenship status.
7. On 10/28/10, Claimant requested a hearing disputing the increased FAP benefit amount for 12/2010 specifically contended that the increase was insufficient following Claimant's loss of SSI benefits.

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). The Department of Human Services (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

For FAP benefits, income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. BEM 505 at 8. A supplement may be necessary in some cases. *Id.*

In the present case, Claimant reported a change in income to DHS on 10/11/10; specifically, Claimant reported that she would no longer receive SSI benefits from the Social Security Administration. DHS investigated Claimant's termination of SSI and verified that Claimant was no longer receiving the SSI based on a failure to meet the citizenship requirement for SSI benefits. Accordingly, DHS mailed a Verification Checklist requesting verification of citizenship for all of Claimant's FAP group members. Claimant conceded that citizenship verification was returned for all group members except for Claimant's daughter, [REDACTED]. Thus, DHS had two reasons to update Claimant's FAP benefits, to remove the SSI benefits that Claimant no longer received and to update [REDACTED] citizenship status to unverified.

There was no evidence that Claimant failed to timely verify her reported change in income. Based on a 10/11/10 reporting date, the proper FAP benefit month to be affected would be 11/2010.

Claimant disputed the 11/2010 FAP benefit issuance of \$162. BEM 556 outlines the proper procedures for calculating FAP benefits.

The first step in determining FAP benefits is to determine the FAP group's countable income. It was not disputed that Claimant's spouse receives \$688/month in SSI benefits.

For all programs, specialists are directed to determine the alien status of each noncitizen requesting benefits at application, member addition, redetermination and when a change is reported. BEM 225 at 1. If a group member is identified on the application as a U.S. citizen, do not require verification unless the statement about citizenship is inconsistent, in conflict with known facts or is questionable. *Id.* A person must be a U.S. citizen or have an acceptable alien status for the designated programs. *Id.* Based on Claimant's failure to verify the citizenship status for [REDACTED] it is found that Feryal is properly disqualified as a FAP group member.

Bridges (the DHS database) budgets a pro rata share of earned and unearned income of a person disqualified for refusal to declare citizenship/alien status or a person disqualified for not meeting citizenship/alien status requirements. BEM 550 at 2. Each source of income is prorated individually as follows:

- (1) The number of eligible FAP group members is added to the number of disqualified persons that live with the group.
- (2) Next the disqualified/ineligible person's income is divided by the number of persons in step 1.
- (3) Then the result in step 2 is multiplied by the number of eligible group members.

In the present case, it was not disputed that Feryal's pro-rated share of income was \$745. DHS gives a 20% credit for clients that report employment income. Multiplying Feryal's employment income (\$745) by 80% results in a countable monthly income of \$596. Adding the SSI income to the employment income creates a total monthly countable income of \$1284.

Claimant's three-person FAP group (Feryal is a disqualified member) receives a standard deduction of \$141. RFT 255. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$1143, the same as calculated by DHS.

DHS and Claimant agree that Claimant has no monthly shelter obligation. Claimant was issued the maximum utility credit allowed by DHS policy, \$588. RFT 255. The rent/mortgage expense (\$0) is added to the utility credit (\$588) to calculate Claimant's total monthly housing obligation of \$588.

Claimant's excess shelter cost is the difference between Claimant's housing costs (\$588) and half of Claimant's adjusted gross income. The excess shelter amount is found to be \$17 (rounding up), the same as calculated by DHS.

Claimant's excess shelter credit (\$17) is subtracted from Claimant's adjusted gross income to determine Claimant's net income. Claimant's net income is found to be \$1126. Per RFT 260, the correct amount of FAP benefits for a group of three eligible members with a monthly net income of \$1126 is \$188/month, the same as calculated by DHS. It is found that DHS properly determined Claimant's FAP benefits for 12/2010.

DHS conceded that Claimant was not issued \$188 in FAP benefits until 12/2010. DHS issued \$162 in FAP benefits for Claimant in 11/2010. As stated above, Claimant was entitled to a change effective 11/2010 based on a reported change date of 10/11/2010. DHS contends that there was a citizenship verification issue after DHS knew Claimant lost SSI benefits due to citizenship related issues. Thus, DHS had reason to request citizenship verifications. The undersigned agrees with DHS that there was a basis to request citizenship verifications.

DHS also stated that after citizenship verifications were submitted and processed, it was 11/2010 and DHS could only affect the following benefit month, 12/2010. The undersigned does not agree with this DHS logic. DHS is still required to follow their guidelines in processing Claimant's reported change. The DHS request for citizenship should not have altered the timeframe to process Claimant's reported change in income. Whether DHS processed the SSI and citizenship change in 11/2010 or even later, Claimant was still entitled to an updated benefit amount for 11/2010. It is found that Claimant is entitled to a \$188 in FAP benefits for 11/2010 based on Claimant's reported change in income from 10/11/2010; as Claimant received \$162 of FAP benefits in 11/2010, Claimant is entitled to a \$26 supplement of FAP benefits for 11/2010.

It should also be noted that Claimant reported that [REDACTED] moved out of Claimant's residence on an unspecified date. Claimant's daughter conceded that this information was not reported prior to the date of the administrative hearing. This reporting has no impact on Claimant's 10/28/10 hearing request as Claimant concedes that the change and reporting of the change did not occur until following submission of the hearing request. DHS indicated that the reported change was noted and would be processed in accordance with their regulations.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly calculated Claimant's FAP benefits to be \$188 for 12/2010. The actions taken by DHS are partially AFFIRMED

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly failed to issue Claimant \$188 of FAP benefits in 11/2010. It is ordered that DHS issue \$26 in FAP benefits to Claimant for 11/2010 to increase her total FAP issuance in 11/2010 to \$188. The actions taken by DHS are partially REVERSED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/14/2010

Date Mailed: 12/14/2010

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 date of the rehearing decision.

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