

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201154655
Issue No: 3003
Case No: [REDACTED]
Hearing Date: October 20, 2011
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on September 21, 2011. After due notice, a telephone hearing was held on October 20, 2011. Claimant appeared and provided testimony.

ISSUES

Whether the department properly determined Claimant's eligibility for Food Assistance Program (FAP) benefits?

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 a recipient of FAP benefits in the amount of [REDACTED] per month at all times relevant to this hearing.
2. In August, 2011, the department discovered that Claimant and Claimant's spouse were receiving biweekly unemployment compensation benefits (UCB) and, due to department error, these benefits were not included in Claimant's FAP budget. (Department Hearing Summary, Department Exhibits 7-23).
3. Although Claimant's UCB discontinued on August 13, 2011, Claimant's spouse continues to receive UCB. (Department Exhibits 13-23).
4. On September 15, 2011, the department mailed Claimant a Notice of Case Action (DHS 1605) advising him that, effective October 1, 2011, his FAP benefits would be reduced to [REDACTED] per month for the reason that his net unearned income amount has changed. (Department Exhibits 1-6, 10-18).

5. On September 20, 2011, Claimant requested a hearing protesting the department's reduction in his FAP benefits.

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affective eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1)

The Food Assistance Program (FAP) was established pursuant to 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 (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015. Department policies for the program are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

Department policy states that clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. Clients must take actions within their ability to obtain verifications. BAM 105.

DHS staff must assist when necessary. The local office must assist clients who ask for help in completing forms or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. BAM 105.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. The department must tell the client what verification is required, how to obtain it, and the due date. The Verification Checklist (DHS-3503) is mailed to the client to request verifications. The client must obtain the required verifications, but the department must assist if clients need and request help. BAM 130.

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI),

Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the department multiplies the average weekly amount by 4.3. If the client is paid every other week, the department multiplies the average bi-weekly amount by 2.15. BEM 505.

In this case, at the time the department reduced Claimant's FAP benefits, his spouse was receiving biweekly unemployment compensation benefits in the amount of [REDACTED]. When multiplied by a 2.15 conversion factor in accordance with the applicable department policy, this amounted to a total of [REDACTED] in unearned income per month. When Claimant's countable income of [REDACTED] was reduced by a standard deduction of [REDACTED], Claimant's adjusted gross income was [REDACTED]. An excess shelter deduction of [REDACTED] was then subtracted from Claimant's adjusted gross income leaving a monthly net income of [REDACTED].

Claimant's excess shelter deduction of [REDACTED] was determined by adding Claimant's monthly housing expenses to the [REDACTED] standard heat and utility amount and subtracting half of Claimant's adjusted gross income. Claimant's monthly housing expense is [REDACTED] which, when added to the [REDACTED] standard heat and utility amount, resulted in a total housing expense of [REDACTED]. Half of Claimant's adjusted gross income ([REDACTED]) was then subtracted from Claimant's housing and utilities ([REDACTED]) for an adjusted excess shelter amount of [REDACTED]. Since Claimant does not meet the senior/disabled/veteran criteria, the department may only deduct the non-SDV shelter maximum amount of [REDACTED] from Claimant's adjusted gross income. BEM 556.

Federal regulations at 7 CF 273.10 provide standards for income and the amount of household benefits. In accordance with the federal regulations, the department has prepared income and issuance tables which can be found at RFT 260. This issuance table provides that a household size of three with net income of [REDACTED] is entitled to a [REDACTED] monthly FAP allotment. Therefore, the department's FAP eligibility determination was correct.

This Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, the department acted in accordance with policy in determining Claimant's FAP benefit eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in determining Claimant's eligibility for FAP benefits.

The department's actions are **UPHELD**. It is SO ORDERED.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: October 20, 2011

Date Mailed: October 21, 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 date of the rehearing decision.

SDS/cr

cc:

