

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.: 2011-7188
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: December 16, 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 16, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, appeared and testified.

ISSUES

1. Whether DHS properly calculated Claimant's Food Assistance Program (FAP) benefits effective 11/2010.
2. Whether DHS properly calculated Claimant's eligibility for Medical Assistance (MA) benefits effective 11/2010.

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 and MA benefit recipient.
2. Claimant is part of a household that includes Claimant and his minor child.
3. As of 11/2010, Claimant received \$692/two weeks (see Exhibit 3) in Unemployment Compensation (UC); \$50/two weeks of Claimant's UC income is from the American Reinvestment and Recovery Act (ARRA).
4. Claimant's child received the following amounts in child support: \$0 in 8/2010, \$201 in 9/2010 and \$201 in 10/2010 (see Exhibit 7).

5. Claimant verified a \$409.90/two week obligation to pay child support (see Exhibit 8).
6. For benefit month 11/2010, DHS calculated Claimant's benefits of \$16/month after calculating \$2088/month in gross income for Claimant's FAP group and giving Claimant \$0/month credit for a child support obligation (see Exhibit 4).
7. For benefit month 11/2010, DHS calculated that Claimant was eligible for Medicaid subject to a \$921/month deductible and that Claimant's child was eligible for Medicaid subject to a \$1341/month deductible (see Exhibit 6).
8. On 11/5/10, Claimant requested a hearing disputing his FAP and MA benefit determinations for 11/2010.

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).

In the present case, Claimant disputed the determination by DHS for Claimant's 11/2010 FAP benefit month issuance. Claimant specifically indicated that DHS over-budgeted Claimant's income and neglected to consider Claimant's child support expenses.

Based on a submitted budget by DHS for 11/2010 (Exhibit 3) it is known that DHS calculated that Claimant's FAP group had \$2088 in countable income. DHS verified that Claimant received \$642/two weeks in countable income UC income beginning 10/04/10.

DHS converts biweekly non-child support income into a 30 day period by multiplying the average income by 2.15. BEM 505 at 6. Multiplying Claimant's gross average UC income (\$642) by 2.15 results in a monthly countable income amount of \$1380 (dropping cents).

DHS also established that Claimant's child received child support income. To prospect child support income, DHS is to use the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505 at 3. DHS did

not clarify which three month period of child support were used to calculate the child support income. As Claimant disputes an 11/2010 FAP benefit calculation, the undersigned is inclined to consider 8/2010-10/2010 as the proper months of child support income to prospect future income. The child support history (Exhibit 7) verifies that Claimant's child received \$0 in 8/2010, \$201 in 9/2010 and \$201 in 10/2010. The average child support income from 8/2010-10/10 is \$134/month.

When adding Claimant's UC income (\$1380) with the child support income (\$134) results in a countable income of \$1514. DHS calculated an income of \$2088 for 11/2010. If DHS used other income in the calculation of Claimant's FAP benefits, that evidence was not presented. It is found that DHS erred in calculating Claimant's 11/2010 FAP benefits by over-budgeting Claimant's income.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 at 1. For groups without a senior, 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.

DHS states Claimant alleged a child support obligation but that DHS was unable to verify the obligation on their child support database. The undersigned is not convinced that a failure by the child support inquiry to verify a child support obligation is conclusive proof that the obligation does not exist. This was the only evidence submitted by DHS denying the obligation.

Claimant submitted a seemingly authentic document verifying a \$409.90/two week payment of child support. Claimant also listed the obligation on his Assistance Application and provided three seemingly authentic docket numbers. Based on the evidence presented, Claimant established that he pays \$409.90/two weeks in child support and that DHS erred in omitting the obligation from Claimant's FAP budget for 11/2010.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

The DHS determinations concerning Claimant's and his child's MA benefits factored the same income that DHS used to calculate Claimant's eligibility for FAP benefits. The calculations for MA benefits are identical except that for MA, DHS does not convert bi-weekly income to a 30 day period using a multiplier. Accordingly, DHS erred in calculating Claimant's eligibility for MA benefits by budgeting too much income for Claimant's group. Similarly DHS erred in neglecting Claimant's verified child support obligation of \$409.90/two weeks.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly calculated Claimant's eligibility for FAP and MA benefits for 11/2010. It is ordered that DHS recalculate Claimant's eligibility using \$642/two in UC income, \$134/month in received child support and \$409.90/two weeks in child support obligation. DHS shall supplement Claimant for any FAP benefits not received by Claimant. DHS shall also update Claimant's MA benefits and correct Claimant's eligibility accordingly. The actions taken by DHS are REVERSED.

Christian Gardocki

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

Date Signed: 12/29/2010

Date Mailed: 12/29/2010

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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