

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.: 2011-7389
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: December 15, 2010
Oakland County DHS (02)

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 15, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly determined that Claimant's Food Assistance Program (FAP) group had excess income for 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 applied for FAP benefits on 7/29/10.
2. As of 7/29/10, Claimant was part of a four-person FAP group which included Claimant and three grandchildren who resided with Claimant due to a foster care placement.
3. As of 7/29/10, Claimant received \$2570/month in retirement benefits.
4. As of 7/29/10, Claimant received \$274/month in Family Independence Program (FIP) benefits on behalf of her two minor grandchildren, [REDACTED] and [REDACTED].
5. As of 7/29/10, Claimant's 19 year old granddaughter, [REDACTED] received \$306/month in Family Independence Program (FIP) benefits.

6. As of 7/29/10, Claimant was responsible for \$808/month in monthly rent or mortgage expenses.
7. On an unspecified date, DHS denied Claimant's FAP application for unspecified reasons.
8. Claimant reapplied for FAP benefits on 10/7/10.
9. As of 10/7/10, Claimant's income and expenses were identical to what they were on 7/29/10.
10. On an unspecified date, DHS denied Claimant's application dated 10/7/10 due to excess income.
11. On 11/16/10, Claimant requested a hearing concerning the denial of FAP 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).

FAP group composition policy defines a caretaker as a related or unrelated person who provides care or supervision to a child(ren) under 18 who lives with the caretaker but who is not a natural, step or adopted child. BEM 212 at 1. This policy does not apply to foster children (see below). *Id.* A person acting as a parent and the child(ren) for whom he acts as a parent who live with him must be in the same group. *Id.*

The FAP group may choose to include or exclude a foster child whose foster parent is a group member. *Id.* at 2. If excluded, the foster child is not eligible for FAP as a separate group, and the foster care payment is not income to the group. *Id.*

Claimant's primary argument is that she provides care to her grandchildren who reside with Claimant through foster care placement. Claimant contends that under such circumstances, Claimant is entitled to a FAP determination which excludes her income.

Claimant did not dispute that her grandchildren reside with her and that she is the primary caretaker for all three of her grandchildren. As stated above, FAP group composition policy allows for the exclusion of foster care children from a person's FAP group. Thus, Claimant is entitled to exclude her foster children from her FAP benefits group. Doing so would not accomplish what Claimant is attempting to do, excluding her income from the FAP benefit calculation.

The FAP benefit group composition policy specifically prohibits foster children excluded from Claimant's FAP group from receiving FAP benefits as a separate FAP benefits group. Thus, Claimant may not receive a FAP benefit calculation which excludes her own income. It is found that Claimant's grandchildren are not entitled to FAP benefits as a separate group from Claimant.

It still must be considered whether DHS properly determined Claimant's eligibility for FAP benefits as a four person FAP group. BEM 556 outlines the proper procedures for calculating FAP benefits.

The amount of Claimant's monthly income was not in dispute. Claimant received \$2570/month in gross retirement benefits. Claimant also received \$274/month in FIP benefits and Claimant's daughter, [REDACTED] receives \$306/month in FIP benefits. The total countable gross income for Claimant's FAP group is \$3150/month.

The DHS budget (Exhibit 1) did not appear to include Claimant's FIP benefits of \$274. As DHS relied on more favorable information for Claimant, the undersigned is inclined to use the amounts used by DHS. For purposes of this decision, Claimant's total monthly income is found to be \$2876/month.

Claimant's four-person FAP group receives a standard deduction of \$152. RFT 255. The standard deduction is subtracted from the countable monthly income to calculate the FAP group's adjusted gross income. The adjusted gross income amount is found to be \$2724.

Claimant stated that she has a monthly \$808 rent or mortgage obligation. Claimant was issued the maximum utility credit allowed by DHS policy, \$588. RFT 255. The rent/mortgage expense is added to the utility expense to calculate Claimant's total monthly housing obligation of \$1396.

Claimant's excess shelter credit is the difference between Claimant's housing costs (\$1396) and half of Claimant's adjusted gross income. The excess shelter amount is found to be \$34.

The FAP group's net income is determined by taking the group's adjusted gross income (\$2724) and subtracting the excess shelter cost (\$34). The FAP group's net income is

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found to be \$2690. Based on a FAP group of four with a net income of \$2690, the net income limit for FAP benefits is \$1838/month. RFT 250 at 1. Claimant's countable net income exceeds the FAP benefit net income limit. It is found that DHS properly denied Claimant for FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's FAP benefit applications dated 7/29/10 and 10/7/10. The actions taken by DHS are AFFIRMED.

Christian Gardocki

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

Date Signed: 12/21/2010

Date Mailed: 12/21/2010

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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