

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

IN THE MATTER OF:



Reg No. 2011 8090
Issue No. 3015
Case No. [REDACTED]
Hearing Date: January 3, 2011
Office: Wayne County DHS (19)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 January 3, 2011. The claimant appeared and testified. Anita Kemsley, FIM appeared on behalf of the department

ISSUE

Did the Department properly deny the Claimant's application for food assistance (FAP) due to excess income?

FINDINGS OF FACT

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

1. The Claimant was an ongoing FAP recipient.
2. On October 1, 2010, the Claimant's FAP case was closed due to income ineligibility for the reason the Claimant's net income exceeded the net income limit.
3. The Claimant receives \$1,822 per month in RSDI benefits. Exhibit 1 - SOLQ Report.
4. The Claimant is disabled and is considered an SDV group of one member.
5. The Claimant no longer pays child support since March 2010. Exhibit 2 Child Support Search

6. The Claimant has not paid heating expense and has not paid rent although he testified that he may be obligated to a relative to pay rent at some future date.
7. The Department's Bridges computer system completed a mass update on September 4, 2010, and the Claimant's case was closed due to excess income. The Claimant was determined to be ineligible for FAP benefits because the net income of \$1681 exceeded the Net Income Limit for a group of 1 member.
8. The Department based of RFT250, closed the Claimant's FAP case as the Claimant's net income exceeded the net income limit for a group of one member of \$903.
9. The Department presented a budget at the hearing which was not correct as it did not include an excess shelter deduction for the standard utility deduction amount of \$588 and therefore the FAP Budget must be re run and is incorrect. Exhibit 3 FAP budget
10. At the conclusion of the hearing, the hearing record was left open until January 16, 2010 to afford the Claimant an opportunity to submit information regarding the amount of his RSDI benefits and whether any child support has been paid by him after March 2010. The record was left open because the claimant did not receive the hearing packet and needed additional time to respond to the matter of the amount of his RSDI income and child support payments.
11. The Claimant's documents were received by the Administrative Law Judge on January 19, 2010, and did not contain information regarding the amount of child support which has been paid by the Claimant after March 2010, and the amount of his gross RSDI benefits. The documents contained other information regarding the Claimant's difficulty in obtaining copies of his medical bills from various providers. Claimant's Exhibit 1 (entire packet submitted 1- 19 2011)
12. The Claimant orally requested a hearing. Exhibit 4

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) 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 CML 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 Bridges Reference Manual (BRM).

In this case the Claimant is disputing the finding by the Department that the Claimant is not eligible to receive FAP benefits due to his income exceeding the net income allowed to receive food assistance. The Claimant's income, (one member group) is required to be determined and counted when determining eligibility for FAP benefits. In this case

the amount the Department used as gross unearned income was \$1822. This income amount could be neither confirmed nor denied by the Claimant as he was unsure what his RSDI income was. The unearned income used by the Department was based upon the online SOLQ report which confirmed the gross income and was the best information available. The Department's use of the SOLQ unearned income information was correct and the inclusion of \$1822 as unearned income in the FAP budget was also correct.

The claimant was given until January 16, 2011 to submit information with regard to income received from RSDI in September 2010 the period examined by the Department upon which the decision to close the claimant's case was based. The information submitted did not address the RSDI income received and therefore the amount of RSDI income as determined by the Department stands as correct. The same is true for the Department's conclusion that the Claimant no longer pays child support based on the reporting system.

BEM 556 also requires a standard deduction based on Claimant's FAP group size (1 person) of \$140 per RFT 255. Subtracting the standard deduction from \$1822 creates an adjusted gross income of \$1681. However the failure to include the standard utility allowance of \$588 when calculating the Claimant's FAP budget is clear error. RFT 255. Even though the Claimant does not currently pay housing expenses or utility expenses he is entitled to an excess shelter deduction BEM 554. The Department FAP budget is incorrect in this regard and must be recalculated.

BEM 554 provides:

Effective March 1, 2010

All FAP groups receive the h/u standard based on the receipt of \$1 in Low Income Home Energy Assistance Program (LIHEAP). This LIHEAP benefit allows all FAP cases to receive the h/u standard, **even if they do not have the responsibility to pay and do not provide verification. (Emphasis supplied)** BEM 554 page 11 and 12

Based on the foregoing provision the FAP budget as prepared by the Department is incorrect and must be recalculated to include the \$588 deduction. RFT 255 and BEM 554. The failure to include this amount is clear error.

The Claimant may be entitled to medical expense deduction in the calculation of his FAP budget but has not presented the department to date with verification of ongoing monthly medical expenses. The claimant testified that he was having difficulty documenting his prescription expenses because his health insurer is not cooperating. The claimant did not submit any bills or printouts with dates from any of the pharmacies he has obtained prescriptions from and thus the Department could not properly include a medical expense deduction when calculating the Claimant's FAP budget. The claimant is encouraged to obtain pharmacy printouts and provide them to the Department so that he can substantiate his ongoing medical expenses as well as those from his health insurer so that he can substantiate his medical expense for FAP benefits calculation.

The Claimant also no longer pays his child support obligation and could not confirm what amount if any was paid by him by deduction from his RSDI check. The Department relied on its child support search which indicated that the Claimant has not paid child support since April 2010. Thus the Department correctly determined that the Claimant was no longer entitled to a child support expense when calculating his FAP budget.

As regards to the medical expenses that the Claimant indicated are ongoing, the Claimant may submit any medical expenses he is able to obtain that are ongoing and reapply for FAP benefits at that time if after the current recalculation of his FAP benefits as ordered by this Decision still determines that he is ineligible to receive FAP benefits. At the time of the FAP closure, the Department had not received any verifications of medical expense to include in the FAP budget.

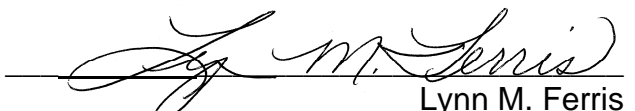
In conclusion, in accordance with the foregoing analysis the Department is required to re run and recomputed the Claimant's FAP budget to include the Standard Utility deduction of \$588 as its failure to do so is clear error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's closure of the Claimant's FAP case is correct and therefore must be REVERSED.

Accordingly, it is ORDERED:

1. The Department shall reopen the Claimant's FAP case retroactive to the date of closure, October 1, 2010, and shall recompute the FAP budget to include the standard utility deduction of \$588 in the budget, and shall include in its FAP budget computation, the excess shelter deduction analysis.
2. If after the FAP budget is recomputed, and if the Claimant is deemed eligible to receive FAP benefits, the Department shall supplement the Claimant for any FAP benefits he was otherwise entitled to receive.


Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 02/02/11

Date Mailed: 02/10/11

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.

LMF/dj

cc:

[REDACTED]