

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

IN THE MATTER OF:



Reg. No.: 2011-8805
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: January 3, 2011
Wayne County DHS (35)

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 January 3, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly calculated Claimant to have excess income for Food Assistance Program (FAP) benefit eligibility effective 10/6/10.

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 10/6/10.
2. Claimant is part of a FAP group of one person.
3. Claimant (DOB 9/12/47) is a person over age 60 years.
4. Claimant receives \$2716/month in gross retirement benefit income (see Exhibit 1).
5. Claimant's retirement benefits are reduced by the following monthly obligations: \$967.35 for child support (see Exhibit 2), \$302.49 for health insurance, \$472.85 for spousal support/apportionment and \$201.67 for garnishment.

6. Claimant is responsible for a \$500/month housing obligation.
7. On an unspecified date, DHS calculated Claimant's FAP benefits budgeting \$2716 in income and giving Claimant credit for a child support, housing and utility obligation resulting in a \$0/month benefit issuance and denial of Claimant's FAP benefit application dated 10/6/10.
8. On 11/15/10, Claimant requested a hearing disputing 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).

Claimant states he disputed the denial of his FAP benefit application. To determine if the denial was correct, it must be determined for what amount of FAP that Claimant was eligible. BEM 556 outlines the proper procedures for calculating FAP benefits.

Income means a benefit or payment received by an individual which is measured in money. BEM 500 at 3. It includes money an individual owns even if not paid directly such as income paid to a representative. *Id.*

Other retirement income includes annuities, private pensions, military pensions, and state and local government pensions. BEM 503 at 20. DHS is to count the gross benefit as unearned income. *Id.*

The FAP benefit calculation begins with determining a FAP benefit group's monthly income. In the present case, DHS budgeted \$2716/month in gross retirement benefit income. Claimant indicated that he only receives \$771.64/month in net income due to various income deductions. As stated above, countable gross income may include income not actually received by a client. The deduction amounts are not completely ignored and may be considered separately within the FAP benefit calculation. Though Claimant's net income is significantly less than his gross income, it is found that DHS properly determined Claimant's gross monthly income to be \$2714/month.

Claimant's one-person FAP group receives a standard deduction of \$141. 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 \$2573.

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, excess shelter (housing and utilities) up to the maximum allowed amount (no cap on SDV groups) and court ordered child support and arrearages paid to non-household members. *Id.* DHS may consider medical expenses for any group members that are senior, disabled or a disabled veteran. *Id.* No other expenses may be considered. A senior is defined as a person 60 years of age or older. BEM 550 at 1.

It was not disputed that Claimant is responsible for a \$472.85/month spousal support/apportionment. It was also not disputed that Claimant is responsible for \$201.67/month for some unspecified garnishment. Both of these deductions are deducted from Claimant's gross income. Though these obligations unquestionably put a tremendous strain on Claimant's finances, they are simply not allowable factors in determining Claimant's FAP benefit issuance. It is found that DHS properly excluded Claimant's apportionment and garnishment obligations.

DHS also excluded Claimant's monthly medical insurance expense of \$302.49/month. As stated above, medical expenses are considered for persons with a SDV member. It is not disputed that for purposes of FAP benefits, Claimant is a senior as he is aged over 60 years. Thus, DHS erred in excluding Claimant's medical insurance obligation.

DHS is to subtract \$35 from the verified medical expense amount to calculate the countable medical expenses. BEM 556 at 3. Claimant's countable medical expense is found to be \$267/month (\$302.49-\$35 and rounding to nearest dollar).

It was not disputed that Claimant is responsible for a \$500/month housing obligation. Claimant was issued the maximum utility credit allowed by DHS policy, \$588. RFT 255. The rent expense is added to the utility expense to calculate Claimant's total monthly housing obligation of \$1088.

Claimant's excess shelter cost is the difference between Claimant's housing costs (\$588) and half of Claimant's adjusted gross income after subtracting medical and child support obligation. It was not disputed that Claimant is responsible for a \$967/month (dropping cents) child support obligation. Claimant's excess shelter expense is calculated by the equation ($\$1088 - \frac{1}{2} (\$2573 - \$267) - \967). The excess shelter amount is found to be \$419 (rounding up).

Claimant's net income is determined by taking Claimant's adjusted gross income (\$2573) and subtracting the excess shelter cost (\$419), the child support obligation

(\$967) and the countable medical expense (\$267). Claimant's net income is found to be \$920. Based on a FAP group of one with a net income of \$920, Claimant's FAP benefits amount is calculated to be \$0. RFT 260 at 10. Though DHS may have slightly erred in the FAP benefit calculation by excluding Claimant's medical expenses, correcting the error makes no change in the FAP benefit outcome. It is found that DHS properly denied Claimant's application for FAP benefits dated 10/6/10 due to excess income.

Claimant indicated that his medical expenses are scheduled to increase beginning 2/2011. As discussed during the hearing, Claimant is encouraged to reapply for FAP benefits as the change may affect the FAP benefit issuance.

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 application dated 10/6/10 for FAP benefits due to excess income by Claimant. The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
For Duane Berger, Director
Department of Human Services

Date Signed: 1/11/2011

Date Mailed: 1/11/2011

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.

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