

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.: 2011-9358
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 12, 2011
Macomb County DHS (12)

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 12, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly reduced Claimant's Food Assistance Program (FAP) benefits from \$668 in 12/2010 to \$597 in 1/2011.

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 benefit recipient.
2. Claimant was part of a four-person FAP benefit group.
3. Claimant's gross employment income is \$1106/month.
4. Claimant receives \$10/month in Extended Family Independence Program (EFIP) benefits.
5. Claimant verified a monthly rent of \$283/month with DHS.
6. In 12/2010, DHS issued Claimant \$668 in FAP benefits.

7. On 11/23/10, after discovering that Claimant's employment income was not properly budgeted, DHS determined that Claimant was eligible for \$597/month in FAP benefits effective 1/2011.
8. On 11/30/10, Claimant requested a hearing disputing the 1/2011 reduction in FAP and FIP benefits.
9. During the administrative hearing, Claimant testified that she no longer disputes the reduction of FIP 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 indicated that she disputed the DHS determined 12/2011 FAP benefit issuance. Though nothing changed in Claimant's personal circumstances to affect her FAP benefits, DHS explained that prior to the 1/2011 determination that Claimant's employment income was incorrectly budgeted. When an over-issuance of benefits is discovered, DHS is required to take immediate action to correct the current benefits. BAM 705 at 3. After DHS corrected the budget, Claimant's FAP benefits were reduced. The undersigned will consider whether Claimant's benefits were properly calculated for 1/2011. BEM 556 outlines the proper procedures for calculating FAP benefits.

It was not disputed that Claimant receives \$1106/month in gross employment income. DHS only counts 80% of a FAP member's monthly gross employment income in determining FAP benefits. 80% of Claimant's employment income (\$1106) is \$884 (dropping cents).

It was also not disputed that Claimant received \$10 in EFIP benefits. Claimant's countable employment income (\$884) is added to Claimant's unearned income to determine Claimant's total countable income; that amount is found to be \$894/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 \$742.

One disputed budget issue was Claimant's verified rental obligation. Claimant stated that she reported paying \$598/month in rent. Claimant states that she submitted a lease in 5/2010 reflecting this obligation. DHS indicated that the most recent verification of Claimant's rent was a document submitted on 5/20/10 by Claimant indicating a rent of \$283. Claimant failed to adequately clarify why she would have verified a \$283/month obligation at a time that she should have known that her rent had increased. It is found that Claimant did not verify a \$598/month rent obligation and that DHS properly budgeted \$283/month in rent in determining Claimant's FAP benefits. As discussed during the hearing, Claimant may submit a document verifying her current rent obligation so that DHS may update Claimant's future FAP benefits.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 at 1. For groups without a senior (60 years of age or older), disabled or disabled veteran (SDV) member, DHS considers the following expenses: dependent care, excess shelter (housing and utilities) up to the maximum allowed amount 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.

Claimant stated that she is responsible for paying for a telephone obligation for her daughter and that DHS failed to consider this obligation in determining her FAP benefit issuance. Claimant was issued the maximum utility credit allowed by DHS policy, \$588. RFT 255. This credit encompasses a credit for all utilities including a telephone obligation. Claimant is not entitled to any credit for utilities beyond the \$588 credit.

The verified rent expense (\$283) is added to the utility expense (\$588) to calculate Claimant's total monthly housing obligation of \$871. Claimant's excess shelter cost is the difference between Claimant's housing costs (\$871) and half of Claimant's adjusted gross income. The excess shelter amount is found to be \$500.

For FAP benefit groups that do not contain a senior (aged 60 years), disabled person or disabled veteran (SDV), the excess shelter is capped at a maximum value of \$458. Claimant's FAP benefit group does not have an SDV person; accordingly, Claimant's excess shelter is capped at \$458/month. It should be noted that even if Claimant verified a higher monthly rental obligation, her current FAP benefit amount may be unaffected as Claimant's excess shelter credit cannot exceed the credit that she is already receiving.

Claimant's net income is determined by taking Claimant's adjusted gross income (\$742) and subtracting the allowed excess shelter expense (\$458). Claimant's net income is found to be \$284. Based on a FAP group of four with a net income of \$248, Claimant's FAP benefit amount is calculated to be \$582, the same amount calculated by DHS. RFT 260 at 10. It is found that DHS properly calculated Claimant's FAP benefits for 1/2011.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly reduced Claimant's FAP benefits effective 1/2011. The actions taken by DHS are AFFIRMED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 1/18/2011

Date Mailed: 1/18/2011

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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