

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

IN THE MATTER OF:



Reg. No.: 2011-9712
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 6, 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 6, 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's Food Assistance Program (FAP) 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 benefit recipient.
2. Claimant is part of a one-person FAP benefit group.
3. Claimant received a \$1057/month income in gross Retirement, Survivors, Disability Insurance (RSDI) income on the basis of being a disabled individual.
4. Claimant is responsible for a \$450/month rent obligation but has not submitted verification of the obligation to DHS.
5. Effective 11/2010, DHS credited Claimant with a \$337/month medical expense obligation.

6. For benefit month 11/2010, DHS determined that Claimant is eligible for \$116/month in FAP benefits (see Exhibit 1).
7. On 12/1/10, Claimant requested a hearing disputing his FAP benefit issuance; Claimant specified that he is disputing his 11/2010 FAP benefit amount and also stated that he is seeking an explanation for why his FAP benefits fluctuated over the last few months.

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 stated that he was primarily concerned with why his FAP benefits fluctuated over the last several months when nothing else in his circumstances changed. Claimant did not dispute a specific issuance within those months but simply wanted an explanation for the benefit changes.

DHS provided information concerning Claimant's medical expenses and stated that they were initially incorrectly budgeted by being lumped within a single FAP benefit month. DHS corrected the issue and spread the medical expenses over the remainder of Claimant's FAP benefit period so as to give Claimant credit for the expense over multiple months within his benefit period. Claimant was satisfied with this explanation. As Claimant did not specifically dispute a specific FAP benefit issuance, the undersigned is not inclined to factor this issue within this decision.

Claimant also indicated that he disputes his 11/2010 FAP benefit issuance of \$116. It is entirely appropriate to address this matter by administrative decision BEM 556 outlines the proper procedures for calculating a monthly FAP benefit issuance.

The first step in determining FAP benefits begins with calculating the group's monthly gross income. For all programs, the gross amount of RSDI is countable income. BEM 503 at 20. It was not disputed that Claimant received \$1057/month in gross RSDI benefits.

Claimant's one-person group receives a standard deduction of \$141. RFT 255. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$916.

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.

For FAP benefit month 11/2010, DHS gave Claimant credit for a \$337/month out-of-pocket medical expense. Claimant's actual medical expense would have been \$372/month but DHS applies a \$35 copayment to the monthly medical expenses. The amount of Claimant's credited medical expenses was not disputed.

Claimant indicated that he is responsible for a \$450/month rent obligation. DHS contended that Claimant was not receiving credit for the obligation because Claimant did not verify the obligation. Claimant testified that he believed that he submitted a lease verifying the obligation but did not seem certain. DHS indicated that Claimant's case file dated back to 2006 but there was no indication of a document which would have verified Claimant's rent. Rental expense must be verified. BEM 554 at 11.

The undersigned is inclined to find that Claimant failed to verify his rental expense. Claimant's testimony concerning verifying the expense had some waver and uncertainty. Claimant conceded if he did verify the expense that it would not have been done recently. It is found that Claimant did not verify his rental obligation. Accordingly, it is found that DHS properly did not give credit to Claimant for the obligation. As discussed during the hearing, Claimant is encouraged to submit a verification of his rental obligation so that DHS may consider the obligation in the calculation of Claimant's future FAP benefits.

Claimant was issued the maximum utility credit allowed by DHS policy, \$588. RFT 255. The verified rent expense (\$0) is added to the utility expense to calculate Claimant's total monthly housing obligation of \$588, the same as calculated by DHS.

Claimant's excess shelter cost is the difference between Claimant's housing costs (\$588) and half of Claimant's adjusted gross income minus his countable medical expenses. The excess shelter equation should appear as:

$$\text{Excess shelter} = \$588 - (1/2(\$916 - \$337)).$$

The excess shelter amount is found to be \$299 (rounding cents to nearest dollar and rounding up for \$.50)

Claimant's net income for purposes of FAP benefits is calculated by subtracting countable medical expenses (\$337) and excess shelter (\$299) from Claimant's adjusted

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gross income (\$916). Claimant's net income is found to be \$280. Per RFT 260 the correct amount of FAP benefits for a FAP group of one with a monthly net income of \$280 is \$116/month, the same as calculated by DHS. It is found that DHS properly calculated Claimant's FAP benefits for 11/2010.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FAP benefit issuance for benefit month 11/2010. The actions taken by DHS are AFFIRMED.

Christian Gardocki

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

Date Signed: 1/13/2011

Date Mailed: 1/13/2011

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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