

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No. 201219058
Issue No. 3002
Case No. [REDACTED]
Hearing Date: January 18, 2012
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 January 18, 2012 from Detroit, Michigan. The claimant appeared and testified; Cora Garth appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

The issue is whether DHS properly determined Claimant's eligibility for Food Assistance Program (FAP) benefits as \$17/month.

FINDINGS OF FACT

The Administrative Law Judge, based on 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 household that included a spouse.
3. Claimant's spouse was a full-time student.
4. DHS disqualified Claimant's spouse from the FAP benefit decision due to student status.
5. Claimant received \$2017/month in unearned income.

6. Claimant had a housing obligation of \$1217.50/month.
7. On 12/17/11, DHS determined Claimant's eligibility for FAP benefits as \$17/month effective 1/2012.
8. On 12/12/11, Claimant requested a hearing to dispute the FAP benefit issuance for 1/2012.

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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

The controlling DHS regulations are those that were in effect as of 1/2012, the effective month of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

Claimant requested a hearing to dispute a FAP benefit issuance for 1/2012. BEM 556 outlines the proper procedures for calculating FAP benefits.

Claimant's primary dispute involved group composition. Claimant lived with his spouse. It was not disputed that Claimant's spouse was a full-time student. Claimant contended that DHS should have issued benefits to Claimant as a two person FAP benefit group. DHS responded that Claimant's spouse was disqualified by virtue of being in student status and accordingly issued FAP benefits as a one-person FAP benefit group.

A person enrolled in a post-secondary education program may be in student status. BEM 245 at 1. A person in student status must meet certain criteria in order to be eligible for assistance. *Id.*

A person is in student status if he/she is aged 18 through 49 years and enrolled half-time or more in either:

- a vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate; or
- a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. *Id.* at 2-3.

In order for a person in student status to be eligible for FAP benefits, they must meet one of the following criteria:

- Receiving FIP.
- Enrolled in an institution of higher education as a result of participation in:
 - A JTPA program.
 - A program under section 236 of the Trade Readjustment Act of 1974 (U. S. C. 2296).
 - Another State or local government employment and training program.
- Physically or mentally unfit for employment.
- Employed for at least 20 hours per week and paid for such employment.
- Self-employed for at least 20 hours per week and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.
- Participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer.
- Participating in a state or federally-funded work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965, as amended) during the regular school year (i.e. workstudy).
- Providing more than half of the physical care of a group member under the age of six.
- Providing more than half of the physical care of a group member age six through eleven and the local office has determined adequate child care is not available to:
 - Enable the person to attend class and work at least 20 hours per week.
 - Participate in a state or federally-financed work study program during the regular school year.
- A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12. This includes a person who does not live with his or her spouse, who has parental control over a child who does not live with his or her natural, adoptive or stepparent. *Id.* at 3-4.

The person remains in student status while attending classes regularly. *Id.* at 4. Student status continues during official school vacations and periods of extended illness. *Id.* Student status does not continue if the student is suspended or does not intend to register for the next school term (excluding summer term). *Id.*

It was not disputed that Claimant's spouse was a full-time student that was in student status and ineligible for any of the above listed exceptions. Claimant reasonably questioned the wisdom of the DHS policy. As stated during the hearing, the wisdom of DHS policies is beyond the authority of administrative law judges; it may only be considered whether the policies were properly applied. In the present case, the student status policy was properly applied. Accordingly, DHS properly considered a FAP benefit group that excluded Claimant's spouse as a group member.

Though it is found that DHS correctly determined group size, it must also be determined whether all other FAP benefit factors were correctly applied. BEM 556 outlines the proper procedures for calculating FAP benefits.

It was not disputed that Claimant received \$2017 in monthly unearned income. No disregards apply to unearned income.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 at 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, DHS considers the following expenses: child care and excess shelter (housing and utilities) up to a capped amount and court ordered child support and arrearages paid to non-household members. For groups containing SDV members, DHS also considers the medical expenses for the SDV group member(s) and the full excess shelter expense.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from Claimant's monthly countable income. It was not disputed that Claimant had \$320/month in medical expenses. DHS applied a \$35/month disregard making the countable medical expenses \$285/month. This amount is reduced from the countable income creating a running total of \$1732.

Claimant's FAP benefit group received a standard deduction of \$146. RFT 255 at 1. The standard deduction is given to all FAP benefit groups though the amount varies based on the benefit group size. The standard deduction is also subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$1586.

DHS credited Claimant with a housing obligation of \$1217.50. Claimant reported a lesser amount. For purposes of this decision, the higher and more favorable amount for Claimant will be considered. DHS gives a flat utility standard to all clients. BPB 2010-008. The utility standard of \$553 (see RFT 255) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount. The total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit (\$553). The total shelter obligation is found to be \$1771 (rounding up).

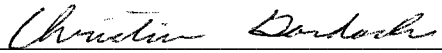
DHS only credits FAP benefit groups with what DHS calls an "excess shelter" expense. This expense is calculated by taking Claimant's total shelter obligation and subtracting half of Claimant's adjusted gross income. Claimant's excess shelter amount is \$978.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. The FAP benefit group

net income is found to be \$608. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's FAP benefit amount is found to be \$17, the same amount calculated by DHS.

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 1/2012 as \$17. The actions taken by DHS are AFFIRMED.


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

Date Signed: January 20, 2012

Date Mailed: January 20, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases).

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

201219058/CG

Request must be submitted through the local DHS office or directly to MAHS by mail to:
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

