

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

IN THE MATTER OF:



Reg. No. 201219061
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; [REDACTED] testified and appeared as Claimant's authorized hearing representative (AHR) and translator. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

The issue is whether DHS properly determined Food Assistance Program (FAP) benefits for Claimant effective 11/2011.

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 four person FAP benefit group.
3. Claimant's spouse received gross employment income of \$230/week (see Exhibit 4).
4. Claimant's daughter, who was aged over 18 years old, received the following gross employment income on the following dates: \$160 on 11/4/11. \$160 on 11/10/11, \$152 on 11/18/11 and \$144 on 11/25/11 (see Exhibits 2-3).

5. Claimant had a monthly housing expense obligation of \$950.
6. On 11/30/11, DHS mailed Claimant a Notice of Case Action (Exhibits 7-9) informing Claimant of an issuance of \$455/month effective 11/1/11.
7. On 12/7/11, Claimant disputed the FAP benefit issuance and contended she should have received more 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). 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 11/2011, 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 11/2011. BEM 556 outlines the proper procedures for calculating FAP benefits.

It was not disputed that Claimant's daughter received various weekly gross employment income. Claimant testified that her daughter was not paid weekly but this testimony was contradicted by check stubs which unequivocally indicated weekly employment payments to Claimant's daughter.

Claimant also contended that her 18—21 year aged daughter's income should not be factored into the FAP benefit decision. Claimant's basis for this belief was what her friends told her. For FAP benefits, DHS disregards the employment income of persons who are: under 18 years of age, attending high school (or a lower grade) and living with someone who provides supervision. BEM 501 at 2. It was not disputed that Claimant's daughter completed high school and was over 18 years; thus, there were two separate reasons Claimant's daughter failed to meet the requirements to have her employment income disregarded.

DHS converts weekly non-child support income into a 30 day period by multiplying the income by 4.3. BEM 505 at 6. DHS is to count the gross employment income amount.

BEM 501 at 5. Multiplying Claimant's daughter's average weekly gross employment income by 4.3 results in a countable income of \$662/month.

Claimant's spouse received weekly income of \$230/week. Claimant contended that her spouse's hours were recently reduced. Claimant was advised that she may report and verify the income reduction to DHS but for purposes of the DHS decision affecting Claimant's FAP benefit eligibility for 11/2011, Claimant's testimony was irrelevant. Multiplying Claimant's spouse's average weekly gross employment income by 4.3 results in a countable income of \$989. Adding Claimant's spouse's and daughter's income together creates a total countable income of \$1651.

DHS only counts 80% of a FAP member's timely reported monthly gross employment income in determining FAP benefits. Applying the 20% deduction to the household income creates a countable monthly income of \$1320 (dropping cents).

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. It was not disputed that Claimant's FAP benefit group did not contain an S/D/V member.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from Claimant's monthly countable income. Claimant did not claim to have any of these expenses.

Claimant's FAP benefit group received a standard deduction of \$154. 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 \$1166.

It was not disputed that Claimant had a monthly housing expense obligation of \$950/month. 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 \$1503.

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 \$920, however, DHS caps the credit at \$458 (see BEM 255 at 1) for groups that do not have an S/D/V member.

The FAP benefit group’s net income is determined by taking the group’s adjusted gross income (\$1166) and subtracting the allowable excess shelter expense (\$458). The FAP benefit group net income is found to be \$708. 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 \$455, 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 11/2011 as \$455. 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.

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:

