

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2012-11062
Issue No. 3003
Case No. [REDACTED]
Hearing Date: December 7, 2011
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 December 7, 2011 from Detroit, Michigan. The claimant appeared and testified. 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 effective 12/2011.

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 received \$613/two weeks in unemployment compensation (UC) benefits.
3. Claimant received fluctuating child and spousal support income through 7/2011.
4. Claimant received no child or spousal support income from 8/2011-10/2011.
5. On 11/1/11, DHS redetermined Claimant's FAP benefit eligibility by determining Claimant received \$1320/month in gross UC income, \$338/month in spousal support and \$459/month in child support for each of two children.

6. On 11/1/11, DHS redetermined Claimant was ineligible for FAP benefits and mailed a Notice of Case Action (Exhibit 1) to Claimant to inform her of the benefit termination.
7. On 11/4/11, Claimant requested a hearing to dispute the FAP benefit redetermination.

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 (RTM). 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 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/>.

In the present case, Claimant disputed a DHS redetermination which determined that she was ineligible for FAP benefits effective 12/2011. Rather than disputing the entire benefit determination, Claimant made two specific disputes concerning income amounts.

It was not disputed that Claimant received \$614/two weeks in gross UC benefits. Claimant contended that the proper monthly amount of UC benefits would be determined by multiplying the biweekly income by two which results in a \$1228 monthly income.

DHS converts biweekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 at 6. Multiplying Claimant's biweekly UC income (\$614) by 2.15 results in a countable income of \$1320, exactly what DHS calculated as Claimant's countable UC income.

To determine child support (and spousal support) income, DHS is to use the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505 at 3. DHS is to not include amounts that are unusual and not expected to continue. *Id.*

Claimant also contended that DHS wrongly calculated her spousal and child support income. On 11/1/11, DHS used a three month period (7/2011-9/2011) of Claimant's spousal and child support payment to prospect Claimant's income beginning 12/2011. Claimant responded that she failed to receive any child or spousal payments after 7/2011 and that the DHS calculation wrongly depicts her ongoing support income.

Though DHS is generally required to use a three month average of support to prospect income, the average should be disregarded when there was a change. In the present case, Claimant received \$0 support income in 9/2011 and 10/2011. This information should have put DHS on notice that the spousal and child support stopped and that Claimant's support income for 11/2011 was going to be \$0 unless some other change occurred. It is found that DHS incorrectly budgeted Claimant's child and spousal support income. It should be noted that Claimant is obligated to report to DHS if or when the spousal and child support income restarts.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly redetermined Claimant's eligibility for FAP benefits effective 12/2011. It is ordered that DHS;

- (1) reinstate Claimant's FAP benefits effective 12/2011; and
- (2) effective 12/2011, redetermine Claimant's spousal and child support income as \$0 until a change occurs.

The actions taken by DHS are REVERSED.



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

Date Signed: December 15, 2011

Date Mailed: December 15, 2011

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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 of the rehearing decision.

CG/ctl

cc:

[REDACTED]
Oakland County DHS (02)/1843

C. Gardocki
File