

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-14405
Issue No: 3015
Case No: [REDACTED]
Hearing Date:
January 5, 2012
Livingston County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on January 5, 2012. Claimant appeared and testified.

ISSUES

Did the Department of Human Services (department) properly reduce the claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The claimant was an FAP benefit recipient.
2. On November 10, 2011, a semi-annual review was processed for the month of October 2011.
3. Per consolidated inquiry the following amounts were used for child support budgeting: [REDACTED]
4. On November 10, 2011, the department caseworker notified claimant that her FAP benefits would be reduced to [REDACTED] per month.
5. On November 18, 2011, claimant filed a request for a hearing to contest the department's negative action.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) 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 (DHS or department) 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 Program Reference Manual (PRM).

Pertinent Department policy states:

A group's benefits for a month are based, in part, on a prospective income determination. A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation.

Get input from the client whenever possible to establish this best estimate amount. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process.

DEPARTMENT POLICY

FIP, SDA, RAP, CDC and FAP

A group's financial eligibility and monthly benefit amount are determined using:

- Actual income (income that was already received).
- Prospected income amounts (not received but expected).

Only **countable** income is included in the determination; see BEM 500.

Each source of income is converted to a **standard monthly amount**, unless a full month's income will not be received; see standard monthly amount in this item. BEM, Item 505, page 1. Use the following guidelines to budget income:

Child Support Income

Past Three Months

Use the average of child support payments received in the **past three calendar months**, unless changes are expected. Include the current month if all payments expected for the month have been received. Do **not** include amounts that are unusual and not expected to continue.

The three month period used can begin up to three months before the interview date or the date the information was requested.

If payments for the past three months vary, discuss the payment pattern from the past with the client. Clarify whether the pattern is expected to continue, or if there are known changes. If the irregular pattern is expected to continue, then use the average of these three months. If there are known changes that will affect the amount of the payments for the future, then do **not** use the past three months to project. **Document the discussion with the client and how you decided on the amount to budget.**

Example 1: Janice applied for FAP on August 12. In discussion with Janice, you agree that the last 3 months payments are a reasonable estimate of future child support income, with one exception - one payment in June was unusually large. [REDACTED] confirms that this payment was a tax intercept payment, and is **not** expected to recur. You use child support payments for May, June and July, excluding the large June payment.

Example 2: Mary receives child support for her son Joey sporadically. She received [REDACTED] May. [REDACTED] explains that Joey's father does not have steady work, and pays as he is able. She is not aware of any changes in his circumstances that would impact his payments. You use the average of these 3 months payments (\$190 divided by 3) when projecting for June.

One Month Projection

If the past three months' child support is not a good indicator of future payments, calculate an expected **monthly** amount for the benefit month based on available information and discussion with the client. BEM, Item 505, page 3.

In the instant case, the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it reduced claimant's FAP benefits based upon prospective budgeting.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it reduced claimant's FAP benefits based upon prospective budgeting.

/s/

Landis Y. Lain
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 1/10/12

Date Mailed: 1/10/12

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.

LYL/ds

