

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201222842
Issue No: 3002
Case No: [REDACTED]
Hearing Date: February 2, 2012
Delta County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on December 29, 2011. After due notice, a telephone hearing was held on Thursday, February 2, 2012.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) eligibility?

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 is an ongoing Food Assistance Program (FAP) recipient as a senior/disabled/veteran (sdv) group of one.
2. On December 17, 2011, the Department notified the Claimant that his Food Assistance Program (FAP) benefits would decrease to [REDACTED].
3. The Claimant receives monthly social security benefits in the gross monthly amount of [REDACTED].
4. The Claimant has a monthly shelter expense of [REDACTED].
5. The Department received the Claimant's request for a hearing on December 29, 2011, protesting the amount of his Food Assistance Program (FAP) allotment.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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 (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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

In this case, the Claimant is an ongoing Food Assistance Program (FAP) recipient as a senior/disabled/veteran (sdv) group one. The Claimant received social security benefits in the gross monthly amount of [REDACTED], an amount that the Claimant did not dispute. This amount is reduced by a [REDACTED] standard deduction for a group of one, which leaves the Claimant with an adjusted gross income of [REDACTED].

The Claimant is eligible to receive a deduction for certain medical expenses from his monthly income as a senior/disabled/veteran (sdv) benefit group. It is the Claimant's responsibility to submit verification of medical expenses to the Department each month to be eligible for this expense deduction. No evidence was present during the hearing that the Claimant had submitted verification of medical expenses when the Department re-determined his eligibility to receive Food Assistance Program (FAP) on December 17, 2011.

The Claimant has a monthly shelter expense of [REDACTED], an amount that the Claimant did not dispute. The Claimant also receives credit for his heat and utility expenses under the Low Income Home Energy Assistance Program (LIHEAP). It is not necessary for the Claimant to provide verification of his actual utility expenses because under the Low Income Home Energy Assistance Program (LIHEAP) and all Food Assistance Program (FAP) recipients receive the same standard deduction of [REDACTED] regardless of their actual expenses.

The Claimant's excess shelter deduction is determined by adding the Claimant's monthly shelter expense to the standard heat and utility deduction, and subtraction 50% of his adjusted gross income. In this case, the Claimant's excess shelter deduction is

██████████. The Claimant is eligible to reduce his income by the entire excess shelter deduction as a senior/disabled/veteran (sdv) group; otherwise he would have been limited by the excess shelter cap of ██████████. The excess shelter deduction represents allowable expenses the Claimant is permitted to deduct from his income when determining his eligibility to receive Food Assistance Program (FAP) benefits.

The Claimant's countable net income of ██████████ is determined by subtracting the excess shelter deduction from his adjusted gross income.

Department policy sets the maximum Food Assistance Program (FAP) allotment a group of one may receive at ██████████. RFT 260. This is the amount a person would receive with a net income of ██████████, and 30% of this amount is ██████████ (rounding up to the nearest dollar as directed by Bridges Eligibility Manual Item 556). The Claimant's monthly Food Assistance Program (FAP) allotment is determined by subtracting ██████████ from ██████████, leaving him with a monthly allotment of ██████████.

This Administrative Law Judge finds that the Department properly applied its policies when determined the Claimant's eligibility to receive Food Assistance Program (FAP) benefits. Whether a person living on a fixed income should be afforded additional benefits, or whether benefits should be based on actual cost of living expenses is beyond the scope of this hearing.

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

The Claimant testified that he believed that the Department had reduced his Food Assistance Program (FAP) benefits as punitive action in response complaints made to his caseworker. This Administrative Law Judge finds that the Department's eligibility determination and the actions taking by the Department (including those discussed during the hearing but that are not relevant here) are not subjective in nature. The Department properly determined the Claimant's eligibility to receive benefits based on objective facts that were not in dispute during the hearing.

Therefore, this Administrative Law Judge must affirm the Department's Food Assistance Program (FAP) eligibility determination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's Food Assistance Program (FAP) eligibility.

The Department's Food Assistance Program (FAP) eligibility determination is **AFFIRMED**. It is SO ORDERED.

/s/
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 6, 2012

Date Mailed: February 6, 2012

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.

KS/tb

cc:

