

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201230074
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: April 11, 2012
County: Macomb DHS (36)

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on April 11, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant to be ineligible for Food Assistance Program (FAP) benefits.

FINDINGS OF FACT

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

1. On 12/21/11, Claimant applied for FAP benefits.
2. Claimant was part of a household of five persons including Claimant's spouse and three children.
3. Claimant's spouse is a non-citizen who has been in the United States for less than five years.
4. Claimant's household income was \$2862/month.
5. On 1/19/12, DHS denied Claimant's FAP benefit application dated 12/21/11 due to excess income.

6. On 1/24/12, Claimant requested a hearing to dispute the FAP application denial.

CONCLUSIONS OF LAW

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

In the present case, Claimant disputed a FAP application denied due to excess income. BEM 556 outlines the proper procedures for calculating FAP benefits. The entire FAP budget process was considered in determining whether the DHS application denial was proper.

Claimant testified that as of 12/21/11, he was part of a five-person household. DHS noted that Claimant's spouse was not factored into the FAP benefit decision because she does not qualify as a FAP benefit group member due to issues of citizenship. The issue was discussed during the hearing and the DHS exclusion of Claimant's spouse from the FAP benefit calculation appears to be correct. Claimant conceded that his spouse is neither a United States citizen nor permanent resident. He also testified that she has resided in the United States for less than two years. Based on DHS citizenship regulations (see BEM 225), the evidence supports finding that DHS properly excluded Claimant's spouse from the FAP benefit determination.

DHS calculated that Claimant's household income was \$2862/month. It was not disputed that Claimant's household income was unearned income from the Social Security Administration. Testimony was given that the household income was \$2868/month, but for purposes of this decision, the lesser and more favorable amount to Claimant will be accepted as correct.

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 an uncapped excess shelter expense.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from Claimant's monthly countable income. DHS did not budget any medical expenses for Claimant; DHS stated that Claimant did not list having any medical expenses in the benefit application. Claimant testified that he had \$190/month in

medical expenses. For purposes of this decision, Claimant's testimony will be accepted as accurate. DHS applies a \$35/month copayment to medical expenses for purposes of FAP benefit eligibility. Thus, Claimant's countable medical expenses are \$165/month. Subtracting this amount from Claimant's monthly income results in a running income total of \$2707.

Claimant's FAP benefit group received a standard deduction of \$152. RFT 255. 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 \$2555.


It was not disputed that Claimant had a housing obligation of \$882/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); this amount is found to be \$1435.

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 found to be \$158 (rounding up).

Claimant's net income is determined by taking Claimant's adjusted gross income (\$2555) and subtracting the allowable excess shelter expense (\$158). Claimant's net income is found to be \$2397. 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 \$0, the same amount calculated by DHS. It is found that DHS properly denied Claimant's FAP benefit application dated 12/21/11 due to excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's FAP benefit application dated 12/21/11 due to excess income. The actions taken by DHS are AFFIRMED.



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

Date Signed: April 16, 2012

Date Mailed: April 16, 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 at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

