

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201246451
Issue No.: 3014; 3002
Case No.: [REDACTED]
Hearing Date: May 16, 2012
County: Wayne DHS (17)

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 May 16, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant. [REDACTED] appeared as a translator for Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) benefit eligibility effective 4/2012.

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 FAP benefit group that included only herself.
3. Claimant had \$1250/month in employment income.
4. Claimant paid \$61/month for a child support obligation.
5. Claimant had an unverified \$400/month shelter obligation.

6. On an unspecified date, DHS determined Claimant to be eligible for \$16/month in FAP benefits.
7. On 4/13/12, Claimant requested a hearing to dispute her FAP benefit eligibility for 4/2012.

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).

DHS determined that Claimant was eligible for \$16 in FAP benefits for 4/2012. Claimant contended that she should have received more in FAP benefits. BEM 556 outlines the proper procedures for calculating FAP benefits. Prior to a FAP budget analysis, an issue of FAP group composition must be considered.

When a child spends time with multiple caretakers who do not live together, such as joint physical custody, parent/grandparent, etc., DHS is to determine a primary caretaker. BAM 212 at 3. Only one person can be the primary caretaker and the other caretaker(s) is considered the absent caretaker(s). *Id.* The child is always in the FAP group of the primary caretaker. *Id.* The primary caretaker is the person who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a calendar month, on average, in a twelve-month period. *Id.* at 1.

Claimant testified that her son typically stayed with her between 6-10 days per month. Claimant thought that her son should have been factored into the FAP benefit determination. DHS did not include Claimant's child in the FAP benefit determination because he did not live with her more than half the days within a calendar year. It is found that DHS properly excluded Claimant's child from the FAP benefit determination.

It was not disputed that Claimant received \$1250/month in gross employment income. DHS is to count the gross employment income amount. BEM 501 at 5.

DHS only counts 80% of a FAP member's timely reported monthly gross employment income in determining FAP benefits. Applying the 20% deduction to Claimant's income creates a countable monthly income of \$1000.

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 is not an SDV individual.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from Claimant's monthly countable income. It was not disputed that Claimant paid \$61/month for child support. Subtracting the child support from Claimant's income creates a running countable income of \$939.

Claimant's FAP benefit group received a standard deduction of \$141. 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 \$793.

There was a dispute concerning Claimant's housing obligation. Claimant contended she paid \$400/month in rent. Claimant submitted a rent receipt (Exhibit 3) to DHS to verify the obligation. Rent receipts may verify shelter obligations but the receipt must contain minimum information to identify the expense including: the amount of the expense, the expense address if verifying shelter, the provider of the service and the name of the person paying the expense. BEM 554 at 11. Claimant's rent receipt failed to verify the address for which rent was paid; thus, DHS properly did not credit Claimant for paying the obligation due to a failure to adequately verify the obligation.


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 \$553.

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 \$157 (rounding up).

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. The FAP benefit group net income is found to be \$710 for 12/2011. 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 proper FAP benefit amount is found to be \$16 for 12/2011, the same benefit issuance 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 4/2011 as \$16. The actions taken by DHS are AFFIRMED.


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

Date Signed: May 18, 2012

Date Mailed: May 18, 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:

