

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No: 201261276
Issue No: 3002
Case No: [REDACTED]
Hearing Date: July 31, 2012
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 hearing was held on July 31, 2012. Claimant appeared and testified.

ISSUE

Did the Department of Human Services determine the proper amount of Claimant's Food Assistance Program (FAP) eligibility on June 15, 2012?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of Food Assistance Program (FAP) benefits. Claimant's household consisted of herself and three foster children.
2. On June 15, 2012, the Department ran a Food Assistance Program (FAP) financial eligibility budget in order to re-determine Claimant's eligibility. The Department determined that one of the foster children was excluded from the benefit group because he was a full time student. The financial eligibility budget included Unemployment Compensation Benefits (UCB) which Claimant was receiving and the foster care payments for the other two foster children. Claimant was sent a Notice of Case Action (DHS-1605) which stated her re-determined Food Assistance Program (FAP) eligibility was [REDACTED] per month.
4. On June 20, 2012, Claimant submitted a request for hearing.

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 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).

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

BEM 245 SCHOOL ATTENDANCE AND STUDENT STATUS DEPARTMENT POLICY FAP Only

A person enrolled in a post-secondary education program may be in student status, as defined in this item. A person in student status must meet certain criteria in order to be eligible for assistance.

STUDENT STATUS FAP Only

A person is in student status if he is:

- Age 18 through 49 and
- Enrolled half-time or more in a:
 - Vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate.
 - Regular curriculum at a college or university that offers degree programs **regardless** of whether a diploma is required.

In order for a person in student status to be eligible, they must meet one of the following criteria:

- Receiving FIP.
- Enrolled in an institution of higher education as a result of participation in:
 - A JTPA program.
 - A program under section 236 of the Trade Readjustment Act of 1974 (U. S. C. 2296).
 - Another State or local government employment and training program.
- Physically or mentally unfit for employment.

- Employed for at least 20 hours per week and paid for such employment.
- Self-employed for at least 20 hours per week and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.
- Participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer.
- Participating in a state or federally-funded work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965, as amended) during the regular school year. To qualify under this provision the student must be approved for work study during the school term and anticipate actually working during that time. The exemption:
 - Starts the month the school term begins or the month work study is approved, whichever is later.
 - Continues until the end of the month in which the school term ends, or when you become aware that the student has refused a work-study assignment.
 - Remains between terms or semesters when the break is less than a full month, or the student is still participating in work study during the break.
- Providing more than half of the physical care of a group member under the age of six.
- Providing more than half of the physical care of a group member age six through eleven and the local office has determined adequate child care is not available to:
 - Enable the person to attend class and work at least 20 hours per week.
 - Participate in a state or federally-financed work study program during the regular school year.
- A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12. This includes a person who does not live with his or her spouse, who has parental control over a child who does **not** live with his or her natural, adoptive or stepparent.

**BEM 503 INCOME, UNEARNED
DEPARTMENT POLICY
All Types of Assistance (TOA)**

This item identifies all of the following:

- Unearned income types.
- Definition of each unearned income type.

- Whether an unearned income type is countable or excluded for each type of assistance.

**CHILD FOSTER CARE PAYMENTS
FIP, RAP, SDA, CDC, MA, AMP and TMAP**

Bridges excludes government, court or private agency payments for child foster care and independent living stipends.

FAP only

Bridges counts these payments as the unearned income of the foster child who has a FAP program request status of yes.

Reminder: A foster parent may choose whether or not to request FAP on behalf of a foster child. When FAP program request status for foster child is no, Bridges does not consider the child's needs or income in the FAP eligibility determination: see BEM 212, Foster Children, for details.

**UNEMPLOYMENT BENEFITS
All Types of Assistance Except FTW**

Unemployment benefits include all of the following:

- Unemployment benefits (UB) available through the Michigan Unemployment Insurance Agency (UIA) and comparable agencies in other states.
- Supplemental unemployment benefits (SUB pay) from an employer or other source.
- Trade Readjustment Act (TRA) payments.

Count the gross amount as unearned income.

Exception: Sometimes benefits are reduced because the individual has earnings. In such cases, the reduced amount is the gross amount. See BEM 500, Returned Benefits about excluding amounts listed under recoupment on the Unemployment Insurance Agency payment stub.

In this case, the Administrative Law Judge has reviewed the Food Assistance Program (FAP) budget and finds that the Department properly computed the claimant's net income and expenses. The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. The Department in compliance with the federal regulations has prepared income limit and issuance tables which are set forth at Program Reference Manual, Table 250 and Table 260. The tables provide that a household with household size and net income of Claimant's is eligible for a Food Assistance Program (FAP) allotment of \$33 per month.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services determined the proper amount of Claimant's Food Assistance Program (FAP) eligibility on June 15, 2012.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHeld.

/s/

Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 9, 2012

Date Mailed: August 10, 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.

GFH/tb

cc:

