

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201311884
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 3, 2013
County: Wayne DHS (55)

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 January 3, 2013 from Detroit, Michigan. Participants 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's Food Assistance Program (FAP) benefit eligibility effective 11/2012.

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 household of five persons.
3. Claimant's spouse was an undocumented alien.
4. Claimant's FAP benefit eligibility was scheduled for redetermination effective 11/2012.
5. Claimant received \$724/two weeks in gross unemployment income (UI).
6. Claimant's spouse received \$1167/month in employment income.

7. Claimant was responsible for a \$600/month rental obligation.
8. On 10/31/12, DHS determined that Claimant was ineligible for FAP benefits effective 11/2012, in part, based on a FAP group size of four persons and UI of \$1557/month.
9. On 11/13/12, Claimant requested a hearing to dispute the FAP benefit redetermination.

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).

The present case concerns a FAP benefit eligibility determination effective 11/2012. BEM 556 outlines the proper procedures for calculating FAP benefit eligibility.

Claimant noted that she lives with her spouse and three children. It was not disputed that DHS budgeted Claimant's FAP benefit eligibility based on a group size of four persons. It was also not disputed that Claimant's spouse was an undocumented alien. Undocumented aliens are not eligible for FAP benefits. BEM 225 (1/2012), p. 2. DHS properly determined Claimant's FAP benefit group size as four persons.

It was not disputed that Claimant received \$724/two weeks in UC income and that DHS budgeted \$1557 as Claimant's income in the FAP determination. Claimant contended that DHS should have multiplied the biweekly income by two resulting in a \$1448/month income. DHS converts biweekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 (10/2010), p. 6. Multiplying Claimant's average unemployment check by 2.15 creates a monthly budgetable income of \$1557 (rounding to nearest dollar).

It was not disputed that Claimant's household's gross employment income was \$1,167/month. DHS is to count the gross employment income amount. BEM 501 (7/2012), p. 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 the employment income creates a countable monthly employment income of \$933 (dropping cents). Adding the countable unearned and earned income results in a running total of \$2490.

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, 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. It was not disputed that Claimant's FAP benefit group had no SDV members.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. Claimant conceded that she had no day care or child support expenses.

Claimant's FAP benefit group receives a standard deduction of \$159. 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 \$2,331.

It was not disputed that Claimant pays \$600/month in rent. DHS gives a flat utility standard to all clients. BEM 554 (1/2011), pp. 11-12. The utility standard of \$575 (see RFT 255) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$575 amount. The total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit (\$575). This amount is found to be \$1,175.

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 \$10 (rounding up to nearest dollar).

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's net income is found to be \$2,321. 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 issuance is found to be \$0, the same amount calculated by DHS. It is found that DHS properly determined Claimant's FAP benefit effective 11/2012 as \$0/month.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant to be ineligible for FAP benefits effective 11/2012.

The actions taken by DHS are AFFIRMED.



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

Date Signed: January 11, 2013

Date Mailed: January 11, 2013

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:

