

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

IN THE MATTER OF:



Reg. No.: 201350299
Issue No.: 1022, 3002
Case No.: [REDACTED]
Hearing Date: June 27, 2013
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 June 27, 2013, from Detroit, Michigan. Participants included the above-named claimant, [REDACTED], Claimant's daughter, testified on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The first issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) eligibility.

The second issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) benefit eligibility.

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 FIP and FAP benefit recipient.
2. Claimant was part of a household that also included an 18 year old daughter who completed high school.
3. Claimant's daughter received biweekly gross income of \$297.84 on 1/13/13 and \$293.76 on 1/31/13.

4. Claimant received Supplemental Security Income of \$710/month.
5. Claimant's rent was \$192.
6. On 3/11/13, DHS mailed a Notice of Case Action informing Claimant of a FIP benefit termination, effective 4/2013, due to Claimant not being eligible for FIP.
7. On 4/5/13, DHS mailed a Notice of Case Action informing Claimant of a FAP benefit determination of \$158, effective 4/2013.
8. On 5/31/13, Claimant requested a hearing to dispute the FIP and FAP actions.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute a termination of FIP benefits. The termination was based on Claimant no longer qualifying for FIP benefit group requirements.

To be eligible for FIP benefits, the group must include a dependent child who lives with a legal parent, stepparent or other qualifying caretaker. BEM 210 (1/2013), p. 1. Groups with no eligible child may consist of a pregnant woman. *Id.*, p. 10. A dependent child is an unemancipated child who lives with a caretaker and is either: under age 18; or aged 18 and a full-time high school student. *Id.*

It was not disputed that Claimant's FIP eligibility was based on being a caretaker for a dependent child. It was not disputed that Claimant's youngest child was 18 years and completed high school in 2012. As of 4/2013, the effective month of the FIP termination, Claimant no longer had a dependent child. Accordingly, the FIP benefit termination was proper.

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).

Claimant requested a hearing to dispute a FAP benefit determination, effective 4/2013. BEM 556 outlines the proper procedures for calculating FAP benefit eligibility. The first step requires determining the countable income.

It was not disputed that Claimant's daughter received employment income. DHS factored the gross income. Claimant contended that DHS should have budgeted her daughter's net income. DHS is to count the gross employment income amount. BEM 501 (7/2012), p. 5. DHS properly factored Claimant's daughter's gross employment income.

DHS converts bi-weekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 (10/2010), p. 6. It should be noted that Claimant's daughter testified that check stubs issued on 1/13/13 and 1/31/13 represented bi-weekly pays, despite being more than 14 days apart. Multiplying Claimant's daughter's average bi-weekly income by 2.15 results in a monthly employment income of \$636. DHS calculated a countable employment income of \$552. For purposes of this decision, \$552 will be accepted as the correct countable employment income.

DHS 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 \$441 (dropping cents).

Claimant testified that she received \$710/month from SSI. Based on figures presented during the hearing, DHS budgeted only \$698 in SSI. Again, the more favorable amount for Claimant will be accepted as correct. Adding the countable employment income with the SSI results in a total countable income of \$1139.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (11/2012), p. 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 was a disabled individual.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. DHS applies a \$35/month copayment to monthly medical expenses. It was not disputed that Claimant's FAP group had no such expenses.

Claimant contended that DHS should have factored vehicle and cleaning expenses in the FAP benefit calculation. Claimant's contention has no basis in DHS policy.

Claimant's FAP benefit group receives a standard deduction of \$148. RFT 255 (10/2012), p. 1. 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 \$991.

Claimant alleged that she was responsible for rent of \$203/month. Claimant had no verification of the obligation. During the hearing, DHS presented Claimant with verification that Claimant's rent was \$192. It is found that Claimant verified a rent of \$192/month.

DHS gives a flat utility standard to all clients. BEM 554 (1/2011), pp. 11-12. The utility standard of \$575 (see RFT 255 (10/2012), p. 1) 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; this amount is found to be \$767.

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 \$272 (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 \$719. 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 \$158, the same amount 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 terminated Claimant's FIP eligibility, effective 4/2013, and determined Claimant's FAP eligibility, effective 4/2013. The actions taken by DHS are AFFIRMED.



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

Date Signed: 7/5/2013

Date Mailed: 7/5/2013

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:

