

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201323708
Issue No.: 3002, 3014
Case No.: [REDACTED]
Hearing Date: March 26, 2013
County: Wayne 43

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 March 26, 2013, from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Assistance Payments Worker).

ISSUE

Did the Department properly calculate Claimant's 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. Claimant received FAP benefits with a monthly allotment of \$ [REDACTED] and a group size of 1.
2. Claimant's son is 21 years of age and is a full-time college student.
3. Claimant, at all relevant time periods, received monthly RSDI income of \$ [REDACTED] and monthly retirement income of \$ [REDACTED]
4. On January 8, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which reduced Claimant's FAP from \$ [REDACTED] to \$ [REDACTED]

5. On January 14, 2013, Claimant filed a hearing request, challenging the Department's calculation of her monthly FAP benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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 1997 AACSR 400.3001-3015.

For FAP purposes, all earned and unearned income available to a applicant or recipient is countable. BEM 500. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. BEM 500.

The Department uses gross income when determining countable income. Gross income is the amount of income before any deductions such as taxes or garnishments. BEM 500. The amount counted may be more than the client actually receives. BEM 500.

The Department determines a group's benefits for a month based, in part, on a prospective income determination. BEM 505. A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation. BEM 505. The Department will obtain input from the client whenever possible to establish this best estimate amount. BEM 505. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process. BEM 505.

A group's financial eligibility and monthly benefit amount are determined using actual income (income that was already received) and prospected income amounts (not received but expected). BEM 505. Only countable income is included in the determination; see BEM 500.

Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505. The Department will determine budgetable income using countable, available income for the benefit month being processed. BEM 505

The Department's computer system known as "Bridges" will compute the average monthly income (and convert weekly and every other week amounts) based on the amounts and the number of months entered. BEM 505.

All income is converted to a standard monthly amount. BEM 505. The Department will convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505. If the client is paid weekly, the Department multiplies the average weekly amount by **4.3**. BEM 505. If the client is paid every other week, the Department multiplies the average bi-weekly amount by **2.15**. BEM 505. Amounts that are received twice a month are added. BEM 505. But the Department should not convert income for the month income starts or stops if a full month's income is not expected in that month. BEM 505. The Department will use actual income received or income expected to be received in these months. BEM 505.

BEM 550 describes income budgeting policy. When the Department budgets the amount of FAP for a group, it first determines whether there is a senior¹, disabled person² or a veteran member of that group. BEM 550. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group³ must have income below the net income limits. BEM 550. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550.

The Department will use only available, countable income to determine eligibility. BEM 550. It will always calculate income on a calendar month basis to determine eligibility and benefit amounts and use income from a month specified in this item for the benefit month being considered. BEM 550.

The Department will budget the entire amount of earned and unearned countable income. BEM 550. Gross countable earned income is reduced by a 20% earned income deduction. BEM 550. Every case is allowed the standard deduction shown in RFT 255. BEM 550. The Department documents income budgeting on either a manually-calculated or an automated FAP worksheet. BEM 550.

Bridges will also help determine who must be included in the FAP group prior to evaluating the non financial and financial eligibility of everyone in the group. BEM 212. FAP group composition is established by determining all of the following: (1) who lives together; (2) the relationship(s) of the people who live together; (3) whether the people living together

¹ A "senior" is a person at least 60 years old. BEM 550 p 1.

² A "disabled" person who receives one of the following: (1) a federal, state or local public disability retirement pension and the disability is considered permanent under the Social Security Act; (2) medicaid program which requires a disability determination by MRT or Social Security Administration; (3) Railroad Retirement **and** is eligible for Medicare or meets the Social Security disability criteria (4) a person who receives or has been certified and awaiting their initial payment for one of the following: (a) Social Security disability or blindness benefits; (b) Supplemental Security Income (SSI), based on disability or blindness, even if based on presumptive eligibility.

³ An SDV FAP group is one which has an SDV member. BEM 550 p 1.

purchase and prepare food together or separately; and (4) whether the person(s) resides in an eligible living situation. BEM 212.

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. BEM 212. First, the Department must determine if they must be included in the group. BEM 212. If they are not mandatory group members, then the Department must determine if they purchase and prepare food together or separately. BEM 212.

Spouses who are legally married and live together must be in the same group. BEM 212. Children include natural, step and adopted children. BEM 212. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM 212. But for ongoing and intake applications where the child is not yet 22, they are potentially eligible for their own case, the month after turning 22. BEM 212.

A person enrolled in a post-secondary education program may be in student status, as defined in BEM 245. Persons employed, self-employed or in work study an average of 30 hours or more per week over the benefit period **or** earning on average the federal minimum wage times 30 hours per week are **not** required to participate in any further employment-related activities. BEM 230B.

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. BEM 245. A person is in student status if the person is 18 through 49 years old and enrolled half-time or more in a: (i) vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate; or a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245.

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

- (1) Receiving FIP benefits;
- (2) Enrolled in an institution of higher education as a result of participation in an approved employment-related activities, a JTPA program, a program under Section 236 of the Trade Readjustment Act of 1974, or another State or local government employment and training program;
- (3) Physically or mentally unfit for employment;
- (4) Employed for at least 20 hours per week and paid for such employment;
- (5) 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;

- (6) Participating in an on-the-job training program;⁴
- (7) 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;⁵
- (8) Providing more than half of the physical care of a group member under the age of six;
- (9) 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 or participate in a state or federally-financed work study program during the regular school year;
- (10) 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 245.

Here, there was no dispute that Claimant's son was 21 years of age, a full-time student and was not working. Claimant's son does not meet the requirements of FAP eligibility under BEM 245. Thus, Claimant's son cannot be added to her FAP group as he is ineligible. With regard to the Claimant's FAP reduction, there was no dispute about the Claimant's income. Claimant was receiving monthly earned income in the amount of \$ [REDACTED] at the time relevant to this matter. According to the FAP issuance tables, a person with a group size of 1 with Claimant's income of \$ [REDACTED] has a monthly allotment of \$ [REDACTED]. The Department properly determined Claimant's monthly FAP allotment of \$ [REDACTED].

Based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department properly reduced Claimant's FAP allotment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did act properly.

Accordingly, the Department's FAP decision is **AFFIRMED**.

⁴ 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. BEM 245.

⁵ To qualify under this student status eligibility provision, the student must be approved for work study during the school term and anticipate actually working during that time, unless exempted because the student: (i) starts the month the school term begins or the month work study is approved, whichever is later; (ii) 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; (iii) 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. BEM 245.

IT IS SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: April 2, 2013

Date Mailed: April 2, 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

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