

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201341534
Issue No.: 3002, 1000
Case No.: [REDACTED]
Hearing Date: May 13, 2013
County: Wayne DHS (41)

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 13, 2013, from Detroit, Michigan. Participants included the above-named claimant. [REDACTED], Claimant's spouse, testified and appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of Department of Human Services (DHS) included [REDACTED], Supervisor, and [REDACTED], Specialist.

ISSUES

The first issue is whether Claimant is entitled to an administrative hearing concerning a Family Independence Program (FIP) application denial.

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. On 2/14/12, Claimant applied for FIP benefits.
2. On 3/14/12, DHS mailed Claimant a Notice of Case Action informing Claimant that the FIP benefit application was denied.
3. Claimant was an ongoing FAP benefit recipient.

4. Claimant was part of a four-person FAP benefit group.
5. Claimant's spouse received weekly gross employment income of \$300.
6. Claimant received \$634 in unearned income.
7. Claimant failed to report or verify medical expenses to DHS.
8. Claimant had a \$650/month rental expense.
9. On 4/1/13, DHS determined Claimant to be eligible for FAP benefits, effective 4/2013, in part, based on: a rent obligation of \$0, employment income of \$1290, unearned income of \$634 and \$0 medical expenses.
10. On 4/11/13, Claimant requested a hearing to dispute the FAP benefit determination and FIP application denial.
11. On an unspecified subsequent date, DHS determined Claimant's FAP benefit eligibility based on a \$650 rental expense.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) is a block grant that was established by the Social Security Act. Public Act (P.A.) 223 of 1995 amended P.A. 280 of 1939 and provides a state legal base for FIP. FIP policies are also authorized by the Code of Federal Regulations (CFR), Michigan Compiled Laws (MCL), Michigan Administrative Code (MAC), and federal court orders. Amendments to the Social Security Act by the U.S. Congress affect the administration and scope of the FIP program. The U.S. Department of Health and Human Services (HHS) administers the Social Security Act. Within HHS, the Administration for Children and Families has specific responsibility for the administration of the FIP program. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The present case partly concerns a dispute concerning a FIP application denial. Prior to an analysis of whether the denial was proper, it must be determined whether Claimant timely requested a hearing.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (1/2013), p. 4. DHS presented testimony that written notice of the denial was mailed to Claimant on 3/14/12. Claimant requested a hearing on 4/11/13- over one year after DHS mailed written notice of the denial. Claimant's AHR testified that he did not know why he waited so long to request a hearing concerning the denial. Based on the presented evidence, Claimant's hearing request concerning FIP application denial was untimely.

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 also concerns a FAP benefit eligibility determination. BEM 556 outlines the proper procedures for calculating FAP benefit eligibility.

It was not disputed that Claimant's spouse received \$300/week in gross employment income. Claimant contended that DHS should have converted the weekly income to monthly income by multiplying the income by four (four weeks per month). DHS converts weekly non-child support income into a 30 day period by multiplying the income by 4.3. BEM 505 (10/2010), p. 6. Multiplying Claimant's weekly income by 4.3 results in a monthly employment income of \$1290, the same amount calculated by DHS.

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 \$1032 (dropping cents).

DHS initially computed Claimant's unearned income as \$763. DHS subsequently reduced the income to \$634. Claimant conceded that \$634 was the correct monthly income. Adding the group's countable employment income and unearned income results in a running total of \$1666.

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 had no child support or day care obligations. Claimant's AHR noted that Claimant incurred medical expenses. The AHR conceded that at the time of the hearing request, verification of the medical expenses were not submitted to DHS. Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (9/2012), p. 1. Because Claimant failed to report and verify any medical expenses, DHS cannot be

faulted for not budgeting the expenses. Claimant was informed to report and verify the expenses for consideration in future benefit months.

Claimant's FAP benefit group receives a standard deduction of \$159. 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 \$1507.

It was not disputed that Claimant verified a \$650/month rent obligation. 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 \$1225.

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 \$471 (rounding down).

It should be noted that DHS capped Claimant's excess shelter obligation at \$469. Capping the excess shelter amount is only appropriate when the FAP benefit group has no SDV members. It was established that Claimant is a disabled individual.

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 \$1036. 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 \$357. DHS calculated a FAP benefit of \$356 (see Exhibit 2). Though the \$1 discrepancy is minute, the difference justifies a reversal of the benefit determination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied determined Claimant's FAP benefit eligibility for 4/2013. It is ordered that DHS:

- (1) redetermine Claimant's FAP benefit eligibility, effective 4/2013, subject to the finding that Claimant is a disabled individual; and
- (2) supplement Claimant for any benefits not issued due to the DHS failure to code Claimant as a disabled individual.

The actions taken by DHS are REVERSED.



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

Date Signed: 5/20/2013

Date Mailed: 5/20/2013

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:

