

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

IN THE MATTER OF:



Reg. No.: 15-005275
Issue No.: 3001
Case No.:
Hearing Date: May 7, 2015
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on May 7, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Health and Human Services (DHHS) included , specialist.

ISSUE

The issue is whether DHHS properly determined Claimant's Food Assistance Program (FAP) 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 FAP benefit recipient.
2. Claimant was a member of a 5 person household and FAP benefit group.
3. Claimant's spouse's monthly income was at least \$2333/month.
4. Claimant was responsible for paying \$600/month for housing.
5. On , DHHS determined Claimant to be eligible for \$363/month in FAP benefits, effective April 2015, in part, based on a monthly income of \$2333 and \$600 in housing costs.
6. On , Claimant requested a hearing to dispute FAP eligibility.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by DHHS (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049. DHHS policies are contained in the Services Emergency Relief Manual (ERM).

Prior to a substantive analysis, it should be noted that Claimant's hearing request noted that he required special arrangements to attend and/or participate in the hearing. Claimant testified that he mistakenly indicated a need for special arrangements.

During the hearing, Claimant's need for an interpreter was considered. Claimant testified that he did not need an interpreter though his English was not always understandable. Claimant was asked to repeat his testimony multiple times so that it could be understood. Though an interpreter may have been preferable, the hearing was conducted without one. No accommodation was deemed necessary because all of Claimant's testimony was understood, though often times extra effort was required.

Claimant testified that he wanted a hearing, in part, to dispute a SER application denial for energy assistance. Claimant's hearing request made no mention of the SER denial. The hearing request frames the disputed issues for an administrative hearing. By failing to state an SER dispute in his hearing request, Claimant is not entitled to an administrative hearing concerning an SER application denial.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. DHHS (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. DHHS policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

Claimant also stated that he requested a hearing to dispute FAP eligibility, effective April 2015. This dispute was stated within Claimant's hearing request. Thus, an administrative hearing and decision concerning Claimant's FAP eligibility is appropriate. BEM 556 outlines how DHHS is to calculate FAP eligibility.

It was not disputed that Claimant's spouse's wages were the only source of Claimant's household income. DHHS stated that Claimant's wife's wages were based on the following weekly gross pay amounts: \$553.80 on [REDACTED], \$563.80 on February 6, 2015, \$433.99 on [REDACTED], and \$628.40 on [REDACTED].

DHS converts weekly non-child support income into a 30-day period by multiplying the income by 4.3. BEM 505 (7/2014), p. 6. Multiplying Claimant's spouse's average weekly income by 4.3 results in a monthly income of \$2343. DHHS factored a monthly income of \$2333 (see Exhibit 2 and 3). For purposes of this decision, the lower and more favorable income to Claimant will be accepted as accurate. It is found that Claimant's spouse's income is \$2333/month.

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 \$1866 (dropping cents).

DHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2014), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, DHHS 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, DHHS 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 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 testimony conceded that he had no day care, medical, or child support expenses.

Claimant's FAP benefit group receives a standard deduction of \$192. RFT 255 (October 2014), 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 subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$1674.

It was not disputed that Claimant's rent was \$600/month. DHHS gave Claimant the standard heating credit (\$553) which is the maximum utility credit available. Claimant's total shelter credit is found to be \$1153.

DHHS only credits FAP benefit groups with what is called an "excess shelter" expense. This expense is calculated by subtracting half of Claimant's adjusted gross income from Claimant's total shelter obligation. Claimant's excess shelter amount is found to be \$316.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Claimant's FAP benefit group's net income is found to be \$1358. 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 \$363, the same amount calculated by DHHS.

Claimant contended that DHHS should have factored that his wife has a car payment and car insurance obligation. Car insurance and car payments are not relevant FAP budget factors. It is found that DHHS properly determined Claimant's FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHHS properly determined Claimant's FAP eligibility as \$363/month, effective April 2015. The actions taken by DHHS are **AFFIRMED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/13/2015**

Date Mailed: **5/13/2015**

CG / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;

- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

cc:

