

**IN THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

Petitioner,	:	Docket No.:
	:	
v.	:	
	:	Agency Reference No.:
DHS, FAMILY & CHILDREN SERVICES,	:	
Respondent.	:	

INITIAL DECISION AND ORDER FOR REMAND

I. FINDINGS OF FACT

The following findings of fact are based upon a preponderance of the evidence produced at the hearing held on Monday, March 10, 2014, at the Richmond County Offices of the Division of Family and Children Services ("DFCS") at 520 Fenwick Street, Augusta, Georgia.

1. Petitioner is enlisted in the Army and is based at
2. Petitioner's base pay is \$1,716.90 per month. He receives an additional monthly payment for basic allowance for subsistence, designated as "BAS," of \$357.55 each month.
3. Petitioner resides on the _____ base in base housing provided by the Army.
4. Petitioner is for tax purposes reported as receiving \$1,194.00 per month in basic allowance for housing or "BAH" each month.
5. Because Petitioner lives on base, this "BAH" does not constitute an actual payment to Petitioner. Rather, it is an amount of imputed income that is reported to Petitioner as taxable income. Petitioner has no control over the amount of the BAH, does not receive cash with respect to the BAH, and is not permitted to use this credit for any purpose.
6. Petitioner filed an application to receive Food Stamps through the Supplemental Nutrition Systems Program (the "Food Stamps Program") on February 3, 2014 for Petitioner, his wife and daughter.
7. The Respondent denied Petitioner's application on the basis that the family income exceeded the limitation of \$2,116 for a family of three.
8. If Petitioner's BAH is included in his income for purposes of computing his eligibility for Food Stamps, his total family income on a monthly basis is \$3,268.45. This exceeds the gross income cap of \$2,116 for a three person unit. If the BAH is not included as income for purposes

of computing eligibility for Food Stamps, his family income is \$2,074.45. This falls below the gross income cap of \$2,116 for a three person unit.


II. CONCLUSIONS OF LAW

1. The sole issue for determination in this matter is whether the provision of on-base housing to Petitioner must be included in his income base for purposes of determination of Food Stamps eligibility.
2. If Petitioner received a separate housing allowance and used those funds to obtain off-base housing, such amounts would be included in his income base for purposes of determining Food Stamp eligibility. *Food Stamp Manual* § 3430-2. However, in-kind benefits like housing, which are not in the form of money payable directly to the Petitioner, are excluded from income. *Food Stamp Manual* § 3420-11.
3. Based on the foregoing, Petitioner's income for Food Stamp eligibility does not include the BAH amount and does not exceed the gross income cap of \$2,116.

III. DISPOSITION AND ORDER OF REMAND

It is the initial decision of this Administrative Law Judge that the matter be remanded to the Richmond County DFCS to reopen Petitioner's application for Food Stamps filed on February 3, 2014, and to exclude from the computation of Petitioner's income any amounts that are attributable to the "BAH" imputed housing cost. DFCS shall process Petitioner's application following the applicable procedures contained in the Food Stamps Manual. As part of such process, Petitioner may be required to provide additional information to DFCS with documentation regarding income, resources, expenses or other eligibility criteria in connection with such interview.

SO ORDERED, this 21st day of March, 2014.


CHARLES R. BEAUDROT, JR.
Administrative Law Judge