

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

IN THE MATTER OF:

[REDACTED]

Reg No: 2011-22531  
Issue Code: 3002  
Case No: [REDACTED]  
Hearing Date: [REDACTED]  
District: Oakland County DHS (02)

ADMINISTRATIVE LAW JUDGE: [REDACTED]

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on [REDACTED]. The Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED] Case Manager and [REDACTED] FIM appeared and testified.

**ISSUE**

Whether DHS properly determined 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. The Claimant is a current recipient of Food Assistance and Cash Assistance (FIP) benefits.
2. The Department reduced the Claimant's food assistance allotment effective [REDACTED] due to the fact that she had begun working and receiving earned income. Exhibit 1

3. The Claimant's employer verified her earned income with two pay stubs in the amounts of [REDACTED] and [REDACTED] Exhibit 2
4. The Department had previously closed the claimant's FIP Cash Assistance case due to non compliance with work related activities. The Department admitted that it closed the FIP case in error and reinstated the Claimant's Cash Assistance and Food Assistance without a break in benefits.
5. The Claimant's hearing request, dated [REDACTED], requested a hearing regarding the closure of her FIP case due to non compliance with Work First. At the hearing, the Department acknowledged the FIP case was reinstated and the Claimant indicated that she no longer wished to proceed with a hearing regarding that issue.
6. The Department conceded that the current FAP reduced allotment in the amount of [REDACTED] per month included the Claimant's previous FIP benefit amount.
7. The FIP benefit amount included in the FAP budget calculation was not recalculated to include the Claimant's earned income.
8. The Department could not recalculate the FIP benefits because the Claimant's hearing request regarding the FIP case closure, was still pending at the time the FAP budget was recalculated to include the new earned income.
9. The Notice of case Action, dated [REDACTED] also calculated the Claimant's FAP benefits based on a household size of 5 because the Claimant had been removed from her FAP group due to the incorrect closure of the Claimant's FIP case due to non compliance. Exhibit 1
10. The Claimant's FAP group has 6 members.

11. The Claimant requested a hearing regarding the decrease in her Food Assistance allotment on [REDACTED]

### CONCLUSIONS OF LAW

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). The Department of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant's primary argument was that DHS calculation of the Claimant's FAP benefits should not have been decreased because she was earning less hourly than in her previous job and that her FAP benefits fluctuated and changed for several months. It would make sense that Claimant would be doubtful of a changing benefit amount, if her circumstances did not change.

A circumstance that did change was the fact that the Claimant began receiving earned income from a new job. The income was verified by the employer for the month of [REDACTED] and two pay stubs were received. The Department did not correctly compute the earned income monthly amount. The total gross income based on the two check stubs was [REDACTED]. ( $[REDACTED] + [REDACTED] = [REDACTED]$ ). BEM 505 pages 6 and 7 requires that the bi weekly check stubs be averaged to determine the gross monthly amount, in this case the average was determined as follows,  $[REDACTED] \div 2 = \$ [REDACTED]$ . The average bi weekly amount is then multiplied by 2.15 to determine the monthly gross income amount, in this case  $[REDACTED] \times 2.15 = [REDACTED]$ . The Department's FAP budget determined the gross earned income amount to be [REDACTED]. The Department incorrectly calculated the earned income amount used to determine the Claimant's January 2011 FAP benefits.

The FAP Budget calculated for [REDACTED] is not incorrect because the FIP cash assistance amount was not recalculated to include the earned income reported by the Claimant. This issue was addressed by the Department at the hearing. The Department could not change the FIP amount because the Claimant had a pending hearing request regarding the Department's closure of her FIP case. While the use of the ongoing FIP benefit amount was not incorrect, due to the pending hearing regarding FIP closure, the Department must adjust the FIP amount going forward, if the Claimant's income and employment continues.

BAM 600 provides: While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, reinstate program benefits to the former level for a hearing request filed because of an negative action.

In this case, as the hearing request was still pending at the time the FAP budget was recalculated, the Department was correct in continuing the current level of FIP benefits. BAM 600, page 18.

Lastly, it is unclear whether the Department calculated the FAP benefits based on a group of 5 or 6 members. The Claimant's FAP group has 6 members.

Based upon the foregoing analysis, the Department erred when calculating the Claimant earned income and, therefore, it's [REDACTED] FAP benefit determination is incorrect and must be REVERSED.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly calculated Claimant's FAP benefits effective [REDACTED]. The actions taken by DHS are REVERSED.

Accordingly, it is ORDERED:

1. The Department shall recalculate the Claimant's [REDACTED] FAP budget to correct the gross countable earned income as set forth in this decision.
2. The Department shall use a FAP group of 6 members when computing the FAP budget for [REDACTED].
3. The Department shall issue a FAP supplement to the Claimant, if any, for FAP benefits the Claimant was otherwise entitled to receive for the month of [REDACTED].
4. The Department shall recalculate the Claimant's future FIP benefit amount to include any earned income received by the Claimant.
5. The Claimant's Hearing Request dated [REDACTED], protesting the closure of her FIP case due to work first non-compliance, is dismissed as the Claimant no longer disputes that action as the Department has reinstated the Claimant's FIP case.

[REDACTED]  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: 05/12/11

Date Mailed: 05/13/11

**NOTICE:** Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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.

LMF/dj

cc: [REDACTED]  
Oakland County DHS (Dist #02) / DHS-1843

[REDACTED]  
Administrative Hearings