

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

IN THE MATTER OF:



MAHS No.: 2011-24996 RECON
Reg No.: 2011-9821
Issue No.: 3002
Case No.: [REDACTED]
DHS County: Shiawassee

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

ORDER OF RECONSIDERATION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 24.287(1) and 1993 AACS R 400.919 upon the request of the Department of Human Services ("Department").

ISSUE

Whether the Administrative Law Judge ("ALJ") erred when he found the Department did not determine the correct monthly food assistance ("FAP") benefit allotment?

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 February 10, 2011, ALJ Gary Heisler issued a Hearing Decision reversing the Department's FAP calculation.
2. On March 2, 2011, the Michigan Administrative Hearing System ("MAHS"), formerly the State Office of Administrative Hearings & Rules ("SOAHR"), received the Department's request for reconsideration of the Hearing Decision.
3. On May 16, 2011, the MAHS granted the request for reconsideration.
4. Findings of Fact 1 – 3 from the February 10, 2010 Hearing Decision are incorporated by reference.

CONCLUSIONS OF LAW

FAP (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 administers FAP 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 Bridges Reference Manual (“BRM”).

The Department determines a client’s eligibility for program benefits based on the client’s actual income and/or prospective income. All countable earned and unearned income available to the client must be considered in determining eligibility for program benefits. BEM 500. The Department determines a client’s eligibility for FAP benefits based on the client’s actual income and/or prospective income. BEM 505. Prospective income is income not yet received but expected. BEM 505. Prospective budgeting is the best estimate of the client’s future income for future benefits. BEM 505. All income is converted to a monthly amount. BEM 505. A standard monthly amount must be determined for each income source used in the budget. BEM 505. Weekly benefit amounts are converted to a monthly amount by multiplying the weekly amount by 4.3. BEM 505. Bi-weekly amounts are converted by multiplying the amount by 2.15. BEM 505.

Unemployment benefits include unemployment benefits through the Michigan Unemployment Insurance Agency and comparable agencies in other states; supplemental unemployment benefits from an employer or other source, or Trade Readjustment Act payments. BEM 503. The gross amount of benefits is counted as unearned income. BEM 503. On February 11, 2010, the Field Operations Administration issued a Memorandum regarding the \$25.00 unemployment benefit supplement as a result of the American Recovery and Reinvestment Act (“ARRA”). Specifically, L-10-015 provides in relevant part:

All states have been mandated to disregard the federal weekly \$25 unemployment benefits issued as a result of the ARRA back to November 1, 2009. . . .

In this case, the Claimant received unemployment compensation benefits in the bi-weekly amount of \$724.00. In converting the bi-weekly amount to a monthly figure, the Department budgeted \$1,556.00 ($\724×2.15) in unearned income. In the February 10, 2011, Hearing Decision, the ALJ, in addition to the \$1,556.00 gross unearned income, included the \$25.00/week federal unemployment supplement. As a result, \$108.00 ($\25×4.3) was added as unearned income. Specifically, the ALJ determined that the correct unearned monthly income figure was \$1,664.00 ($\$1556.00 + \108.00). This conclusion

was incorrect. Ultimately, it is found that the ALJ misapplied Department policy which resulted in a wrong decision. The Department did not err when it disregarded the Claimant's federal weekly \$25.00 unemployment benefit supplement pursuant to L-10-015.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the ALJ erred when he reversed the Department's calculation of FAP benefits.

Accordingly, it is ORDERED:

1. The February 10, 2011, Hearing Decision is VACATED.
2. The Department's October 21, 2010, FAP determination is AFFIRMED.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 19, 2011

Date Mailed: May 24, 2011

NOTICE: The law provides that within 30 days of receipt of the above Reconsideration Decision and Order, the claimant may appeal it to the circuit court for the county in which he/she lives.

CMM/pf

cc:

