

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

IN THE MATTER OF:



Reg. No.: 2011-51694
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: October 3, 2011
County: Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 October 3, 2011, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant only. Participants on behalf of Department of Human Services (Department) included [REDACTED], Assistance Payments Worker.

ISSUE

Did the Department properly calculate 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. Claimant is an ongoing FAP recipient and receives FAP benefits in the amount of \$ 16.
2. The Claimant and her son each receive Social Security benefits in the amount of \$968 per month.
3. The Department used housing expense of \$617.54. Exhibit 2.
4. The Claimant's FAP group consists of 2 members, the Claimant and her son.
5. On 8/11/11, Claimant filed a hearing request, protesting the calculation of her FAP benefits as being too low.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) 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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.

Additionally, the Department correctly determined the Claimant's gross monthly income to be \$1968, and the amount was confirmed by the Claimant. Exhibit 1. Because the Department did not have the Claimant's case file at the hearing it could not be determined how the shelter expenses and excess shelter expense was determined.

Because the Department could not provide substantiation of the shelter expense used in determining the Claimant's benefits, the FAP benefits must be recalculated for August 2011. The Department apparently utilized information, but it could not be determined why it used a shelter expense of \$617.54. Exhibit 2. The Claimant also testified that that amount was too low. Even though the Claimant could not verify at the hearing the correct expense for her shelter expenses, the Department has the burden of proof in the first instance to demonstrate that its calculations were correct.

Accordingly, the Department is required to recalculate the Claimant's food assistance to include the correct shelter expense and taxes and insurance expense, if any, paid by the Claimant. As explained by the Department at the hearing, because the Claimant does not have a traditional mortgage, she must provide a letter of explanation from her bank to verify her monthly shelter expenses. The bank statement alone is not sufficient verification.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly calculated Claimant's FAP benefits improperly calculated Claimant's FAP benefits.

DECISION AND ORDER

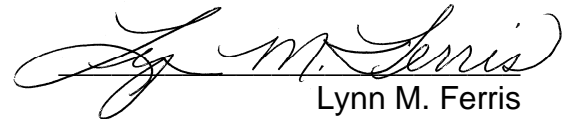
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

did act properly. did not act properly.

Accordingly, the Department's FAP calculation decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall initiate recalculation of the Claimant's FAP benefits to include the correct shelter expense as of August 1, 2011.
2. The Department may seek further verification of the Claimant's shelter expenses if deemed necessary and required by Department policy.
3. The Department shall issue a supplement to the Claimant, if one is appropriate, for any FAP benefits the Claimant is otherwise entitled to receive in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 11, 2011

Date Mailed: October 11, 2011

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

LMF/hw

cc:

