

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

IN THE MATTER OF:

[REDACTED]

Reg No. 2012-10959
Issue No. 3003
Case No. [REDACTED]
Hearing Date: January 10, 2012
Oakland County DHS (02)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was held in Madison Heights, Michigan on Monday, January 9, 2012. The Claimant appeared and testified. The Claimant was represented by [REDACTED]. [REDACTED] appeared on behalf of the Department of Human Services ("Department").

ISSUE

Whether the Department properly calculated the Claimant's food assistance ("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 FAP recipient.
2. The Claimant's group size is 7.
3. The Claimant receives earnings from employment on a weekly basis.
4. The Claimant is responsible for a monthly shelter obligation of \$621.63 and is responsible for utilities.

5. In August 2011, the Claimant received a \$287.00 FAP allotment based on a monthly income of \$3,160.00. (Exhibit 2)
6. On September 20, 2011, the Department sent a Notice of Case Action to the Claimant informing her that effective October 1, 2011, FAP benefits were being reduced to \$278.00. (Exhibit 3)
7. On November 3, 2011, the Department received the Claimant's timely written request for hearing.

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

Group composition is the determination of which persons living together are included in the FAP program group. BEM 212. Shelter expense is an allowable expense and includes rent payments. BEM 554. In determining a FAP allotment, a Heat and Utility Standard is used whenever a FAP group contributes to the heat expense separate from rent, mortgage, or condominium/maintenance payments. BEM 554.

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. 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.

In this case, the Department processed the FAP budget and included gross earnings from employment in the amount of \$3,160.00. The Department's FAP budget contained the correct group size, shelter obligation, and utility standard. In review of the Claimant's actual weekly earnings over a 5-week period; the gross earnings were \$1,488.17 which is well below the \$3,160.00 budgeted by the Department, even after

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considering a prospective budget calculation. Ultimately, because the incorrect gross earnings were used, the FAP calculation is incorrect.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds the Department's FAP determination is not upheld.

Accordingly, it is ORDERED:

1. The Department's FAP calculation is REVERSED.
2. The Department shall recalculate the Claimant's FAP allotment effective August 2011 to include the correct gross earnings in accordance with department policy.
3. The Department shall notify the Claimant, and her Authorized Hearing Representative, of the determination in accordance with department policy.
4. The Department shall supplement for lost benefits that the Claimant was entitled to receive if otherwise eligible and qualified.

Colleen M. Mamelka

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

Date Signed: January 11, 2012

Date Mailed: January 11, 2012

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)

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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
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

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cc:

