

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

IN THE MATTER OF:



Reg. No.: 2012-23997
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: February 8, 2012
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 February 8, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED]

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 received FAP benefits in the amount of \$68.00.
2. Claimant was in a group size of one.
3. Claimant had unearned income in the amount of \$1,223.00.
4. Claimant paid monthly rent of \$625.00.
5. Claimant paid monthly child support arrearage that the Department did not include in calculating Claimant's FAP budget.

6. On January 4, 2012, Claimant filed a hearing request, protesting the amount of benefits.

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.

BEM 550 instructs that eighty percent of the earned income of a household be added to unearned income to determine gross income. Adjusted gross income in a household of one is determined by subtracting the standard amount of \$146.00 (RFT 255). Monthly net income for FAP purposes is then determined by subtracting allowable expenses. BEM 554.

BEM 554, p. 4, 5 instructs:

The following child support expenses are allowed:

- The amount of court-ordered child support and arrearages paid by the household members to non-household members in the benefit month.

Do not allow more than the legal obligation if the client is up-to-date on their child support payments. However, if they are behind and making arrearage payments, allow the total amount paid even if it exceeds the court-ordered amount. Current and arrearage child support expenses must be paid to be allowed.

In the current case, the Department showed that Claimant was paying child support arrearage, but did not include the payment in the budget.

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.

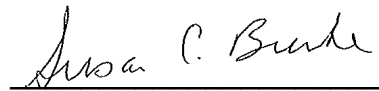
DECISION AND ORDER

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. Initiate recalculation of Claimant's budget, January 1, 2012 and ongoing, including Claimant's payments of child support arrearage as part of the budget.
2. Initiate FAP supplements, January 1, 2012 and ongoing, per Department policy.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 2/15/12

Date Mailed: 2/15/12

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.

2012-23997/SCB

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

SCB/sm

cc:

