

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

IN THE MATTER OF:



Reg. No.: 201240823
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: April 19, 2012
County: Wayne DHS (35)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 April 19, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) benefit eligibility effective 3/2012.

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 was an ongoing FAP benefit recipient.
2. Claimant submitted pay stubs to DHS verifying a gross monthly income of at least \$2339/month.
3. Claimant submitted day care expense records to DHS verifying a \$110/week dependent care expense.
4. Claimant's most recently verified rent obligation was \$200/month.

5. On 3/1/12, DHS processed Claimant's FAP benefit eligibility effective 3/2012, based in part, on a gross earned income amount of \$2339/month, \$110/biweekly day care expenses and a rent of \$200/month.
6. On 3/9/12, Claimant requested a hearing to dispute the 3/1/12 FAP benefit determination.

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 Mich Admin Code, R 400.3001 through R 400.3015.

Claimant requested a hearing to dispute a FAP benefit redetermination effective 3/2012. Claimant raised multiple issues concerning the FAP benefit determination.

Claimant first raised an issue concerning the budgeting of her income. It was not disputed that Claimant submitted four pay stubs from 1/2012 and that the gross amounts were for \$418, \$440, \$941 and \$637. Claimant testified that the \$941 pay stub included commission income which she is not guaranteed to receive. DHS is to discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. BEM 505 at 4. Though commission income is not guaranteed, there was no evidence that one pay with extra commission income was unusual. It is found that DHS properly budgeted the \$941 pay. If Claimant's commission pay was truly unusual, Claimant may submit new income verification to DHS for consideration in future FAP benefit months.

Claimant also contended that the \$637 pay was unrepresentative of her income. Claimant stated that the income included unused vacation pay. Claimant also stated that the extra income is something that she would have only received once per year. Pay received once a year is reasonably construed to be unusual. Based on Claimant's testimony, it is appropriate to discard this pay as unrepresentative.

DHS converts weekly non-child support income into a 30 day period by multiplying the income by 4.3. *Id.* at 6. DHS is to count the gross employment income amount. BEM 501 at 5. Multiplying Claimant's average weekly gross employment income (using the checks for \$418, \$440 and \$941) by 4.3 results in a countable income of \$2578/month. DHS verified that Claimant's 3/2012 budget calculated a monthly income of \$2339. As DHS calculated a more favorable income amount for Claimant than what the evidence

justified, it is found that Claimant is not entitled to a remedy for the income calculation in relation to the 3/2012 FAP benefit calculation.

A second issue concerned day care expenses. It was not disputed that Claimant verified day care expenses to DHS of \$110//week. For weekly expenses, DHS is to multiply the average weekly expense by 4.3. BEM 554 at 3. Multiplying Claimant's expenses by 4.3 results in a monthly day care expense of \$473. DHS conceded that only \$220/month was budgeted in the FAP benefit determination. It is found that DHS erred in determining Claimant's day care expense obligation.

Lastly, there was a dispute over housing costs. Claimant testified that she submitted a document verifying a \$600/month rental obligation. DHS responded that the last received verification from Claimant was a document verifying a \$200/month obligation. Claimant stated she was certain that she signed the drop-box log when she submitted the shelter verification. DHS and Claimant checked the drop-box log for the time period that Claimant believed that she submitted the shelter verification. Claimant's signature was not found. Though Claimant testified credibly concerning submitting the shelter verification, the evidence did not verify her testimony. It is found that DHS properly budgeted \$200/month for a housing expense.

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 when in determining Claimant's income and housing expenses concerning FAP benefit eligibility for 3/2012

did not act properly when determining Claimant's day care expenses for FAP benefit eligibility for 3/2012.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is PARTIALLY 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. redetermine Claimant's FAP benefit eligibility for 3/2012 based on day care expenses of \$473/month; and
2. supplement Claimant for any FAP benefits not received as a result of the DHS error.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 20, 2012

Date Mailed: April 20, 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).

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

CG/hw

cc:

