

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-53416
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: October 2, 2012
County: Mecosta

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon Claimant's request for a hearing made pursuant to Michigan Compiled Laws 400.9 and 400.37, which govern the administrative hearing and appeal process. After due notice, an in-person hearing was commenced on October 2, 2012, at the Mecosta County DHS office. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager [REDACTED] [REDACTED] and Eligibility Specialist [REDACTED] [REDACTED].

ISSUE

In dispute was whether the Department properly computed Claimant's benefits for the Food Assistance Program (FAP) based on unemployment income.

FINDINGS OF FACT

Based on the competent, material, and substantial evidence on the whole record, including the testimony of witnesses, the Administrative Law Judge, finds as relevant fact:

1. Claimant was receiving benefits for Food Assistance Program (FAP) at all times pertinent to this hearing.
2. On April 30, 2012, the department sent Claimant notice of the increase.
3. Beginning May 1, 2012, the department increased Claimant's benefits due to her husband being laid off and his receipt of unemployment income.
4. On May 11, 2012, Claimant filed a hearing request, contesting the department's increase of her FAP benefits.

CONCLUSIONS OF LAW

The FAP [formerly known as the Food Stamp (F S) program] was 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 the FAP in accordance with MCL 400.10, *et seq.*, and 1997 AACRS, R 400.3001 through R 400.3015. Agency policies pertaining to this program are found in the BAM, BEM, and RFT.

As an initial matter, this case was complicated by the fact that Claimant's husband works a few weeks, is laid off a few weeks, is recalled for a few weeks and laid off for a few weeks without any set schedule. As a result, Claimant usually receives his unemployment checks the same day he is returning back to work.

Claimant admitted during the hearing that the department used the correct unemployment income listed on page 2 of the Notice of Case Action dated 4/30/12, in calculating her \$ [REDACTED] FAP allotment. However, Claimant stated she was angry that the department did not also include her husband's April employment income, as he had been recalled back to work by his employer at the time the department computed her \$ [REDACTED] FAP benefits.

During the hearing, Claimant admitted that she did not call and notify the department of her husband returning to work until May 4, 2012, when she received the 4/30/12 Notice of Case Action. Claimant testified that the department should have included her husband's April wages when computing the \$ [REDACTED] FAP amount, because she had already turned in his March wages and they were the same as his April wages.

According to Federal regulations at 7 CFR 273.10, which provides the standards for income and the amount of household benefits, the department properly found that Claimant was entitled to an \$ [REDACTED] FAP allotment based solely on the reported unemployment income. RFT 260. Therefore, the department's FAP eligibility determination was correct based on Claimant's uncontested unemployment income.

As a result, the Department properly increased Claimant's benefits for FAP.

However, by the time the department was made aware that Claimant's husband had earned income in April, 2012, Claimant had already submitted the hearing request leading to this hearing, and the department was unable to correct Claimant's FAP benefits for that month. The department indicated during the hearing that it would not be pursuing an overissuance in this case and the department representatives went out of their way to make it easier for Claimant to report her ever changing household's income for the future.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, and for the reasons stated on the record, the Administrative Law Judge finds that the Department did act properly.

Accordingly, the Department's decision is AFFIRMED.

It is SO ORDERED.

/s/
Vicki L. Armstrong
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: October 5, 2012

Date Mailed: October 5, 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 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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

VLA/las

cc:

