

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201256767
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: July 5, 2012
County: Oakland DHS (03)

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 July 5, 2012 from Detroit, Michigan. Participants included the above named claimant; [REDACTED] testified on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED] lton, Specialist.

ISSUE

The issue is whether DHS properly prospected Claimant's spouse's income in determining Claimant's Food Assistance Program (FAP) benefit eligibility effective 7/2012.

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's spouse was part of Claimant's FAP benefit group.
3. On an unspecified date following 5/1/12, Claimant submitted a Verification of Employment (Exhibit 3) to DHS verifying that her spouse received an average of \$500/week in employment income.

4. On 5/21/12, DHS determined Claimant's FAP benefit eligibility effective 7/2012 based on a monthly employment income of \$2708 for Claimant's spouse based on his employment earnings for 2011 (see Exhibit 1).
5. On 5/30/12, Claimant requested a hearing to dispute the amount DHS budgeted for her spouse's income.

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 (CFR). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

The present case concerns a dispute about Claimant's FAP benefit eligibility effective 7/2012. Claimant limited her dispute to the amount of employment income budgeted by DHS in determining FAP benefits for Claimant.

For non-child support income, DHS is to use past income to prospect income for the future unless changes are expected. BEM 505 at 4. Specifically, DHS is directed to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. *Id.* The 30-day period used can begin up to 30 days before the interview date or the date the information was requested. *Id.*

On an unspecified date following 5/1/12, Claimant submitted a Verification of Employment to DHS verifying that her spouse received \$500/week in employment income; multiplying the weekly amount by 4.3 (see BEM 505) results in a monthly income of \$2150. DHS chose to discard the Verification of Employment information. Instead DHS relied on Claimant's spouse's 2011 tax income information. DHS verified that Claimant's spouse received \$8125 in each of the last three quarters of 2011; this averages to \$2708/month. DHS assumed that Claimant's spouse would continue to receive \$2708/month in income in 2012 despite a more current verification showing a smaller income. There was some logic behind the DHS assumption because Claimant alleged the same \$2150/month income for her spouse in 2011 when the income was proven to be \$558 less per month.

DHS recently verified that Claimant's spouse's employment was verified to be \$5000 for the first quarter of 2012; this results in a monthly average of \$1666 in employment income, considerably less than what DHS assumed Claimant's spouse's income to be for 7/2012. A confirmed reduction in Claimant's spouse's income from 2011 to 2012 makes the DHS reliance on 2011 income to be unreasonable. Based on the presented

evidence, it is found that DHS erred in relying on Claimant's spouse's 2011 employment income to determine FAP benefit eligibility effective 7/2012.

It was considered whether the wage match information from 1/2012-3/2012 or the Verification of Employment was the best verification to project Claimant's spouse's income. The most recent verification should be the most reliable; in this case, the Verification of Employment is the most recent confirmation of Claimant's spouse's earnings; therefore, it is also found to be the most accurate verification.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP benefit eligibility effective 7/2012. It is ordered that DHS:

- (1) redetermine Claimant's FAP eligibility effective 7/2012 by prospecting \$500/week as the employment income for Claimant's spouse; and
- (2) supplement Claimant for any FAP benefits not received as a result of the improper DHS determination.

The actions taken by DHS are REVERSED.



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

Date Signed: July 10, 2012

Date Mailed: July 10, 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 to:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

