

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201221859
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: January 25, 2012
Oakland County DHS (02)

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 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on January 25, 2012 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

The issue is whether DHS properly determined Claimant to have excess income for Food Assistance Program (FAP) benefits effective 12/2011.

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. On an unspecified date, DHS mailed Claimant a Semi-Annual Contact Report (SACR).
3. Claimant timely returned the SACR, along with weekly employment income verifications from 9/2011.
4. On 11/15/11, DHS mailed Claimant a Notice of Case Action informing Claimant that she was ineligible for FAP benefits effective 12/2011 due to excess income.

5. On 12/22/11, Claimant requested a hearing to dispute the termination of FAP benefits.

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 controlling DHS regulations are those that were in effect as of 12/2011, the effective month of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

The present case involved a dispute of a DHS benefit calculation effective 12/2011. DHS determined Claimant was ineligible for FAP benefits effective 12/2011 due to excess income. Claimant presented several arguments disputing the accuracy of the DHS FAP benefit budget.

Claimant contended that her nine year old child that receives Supplemental Security Income (SSI) benefits should not have been factored into the FAP budget. Claimant really presented no rational reason to support her contention. DHS group composition policy (see BEM 212) requires that Claimant's child (and the child's income) be factored in FAP benefit determinations. It is found that DHS did not err in factoring Claimant's child and SSI into the benefit calculation.

Claimant also contended that DHS erred in determining Claimant's earned income. During the hearing, it was determined that DHS properly determined Claimant's gross employment income based on the four weeks of submitted income verification.

Generally, DHS is to use income from the past 30 days, if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505 at 4. Claimant contended that DHS used outdated pay to prospect Claimant's income for 12/2011. Claimant's argument has some merit but is ultimately unpersuasive.

It was not disputed that Claimant submitted four employment check verifications from 9/2011 so that DHS could redetermine Claimant's FAP benefits. There was no evidence that Claimant submitted any other income verifications other than the 9/2011 check verifications. If Claimant's argument were adopted, she would be contending that DHS

should have relied on income verifications which Claimant did not submit; this end result is irrational. DHS relied on the income verifications that Claimant submitted, and there was no reliable evidence that would have led DHS to think that the income verifications were unrepresentative of Claimant's income. Claimant's argument had some legitimacy because there is not typically a full two month time frame between the date of income verifications (9/2011) and the effective month for the benefit calculation (12/2011). DHS credibly testified that the present case involved multiple hearing requests which contributed to a delay in the eligibility decision. It is found that DHS did not err in determining Claimant's earned income.

Claimant also contended that DHS erred by calculating an unearned income (i.e. SSI) of \$434/month. Claimant stated that the SSI fluctuated and was not guaranteed to be \$434/month. A check of the submitted SSI record during the hearing revealed no unfairness by DHS in budgeting \$434/month. It is found that DHS did not err in determining unearned income for Claimant's FAP benefit group.

Claimant contended that she reported income changes to DHS prior to the effective date of the FAP benefit closure. DHS responded that Claimant reported changes in 12/2011, after Claimant's case closed. The DHS testimony was credible and persuasive. That Claimant waited until 12/22/11 following an 11/15/11 notice date to request a hearing, tends to support the DHS testimony.

The only error in the budget favored Claimant. Claimant stated that she paid \$650/month in rent. DHS actually budgeted a \$700 rent obligation.

Though Claimant presented several objections to the DHS FAP benefit budget, Claimant did not establish that DHS committed any reversible errors in the 12/2011 FAP benefit calculation. It is found that DHS properly determined Claimant to have excess income for FAP benefit eligibility effective 12/2011.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FAP benefits effective 12/2011. The actions taken by DHS are AFFIRMED.



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

201221859/CG

Date Signed: January 27, 2012

Date Mailed: January 27, 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:

