

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201253495
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: June 14, 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 June 14, 2012 from Detroit, Michigan. Participants included the above named claimant; [REDACTED] testified on Claimant's behalf. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's unemployment compensation (UC) in determining Claimant's eligibility for Food Assistance Program (FAP) benefits effective 6/2012.

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 received the following gross UC payments on the following dates: \$360 on 3/19/12, \$180 on 4/2/12, \$180 on 4/23/12 and \$180 on 6/4/12.
3. Claimant's spouse received \$554/two weeks in UC income.
4. On 5/7/12, DHS determined Claimant's FAP benefit eligibility effective 6/2012, in part, based on a total household unearned income of \$1753.

5. On 5/11/12, Claimant requested a hearing to dispute the unearned income calculated for the 6/2012 FAP benefit determination.
6. On an unspecified subsequent date, DHS updated Claimant's FAP benefit determination for 6/2012 based on a household unearned income of \$1585.

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).

Claimant requested a hearing to dispute a FAP benefit determination for 6/2012. FAP benefit determinations are affected by several factors including: household members, income, housing expenses, child support expenses, dependent care expenses, medical expenses and various DHS credits and calculations. The only FAP budget factor in dispute was the household unearned income.

It was not disputed that DHS originally determined Claimant's household unearned income as \$1753. It was also not disputed that DHS subsequently reduced the unearned income amount to \$1585 and issued a new FAP benefit determination. Claimant still disputed the \$1585 used by DHS to determine her FAP benefit eligibility.

It was established that Claimant's spouse received biweekly UC income of \$554. Converting the income to a monthly amount by multiplying it by 2.15 (see BEM 505 at 6) results in a budgetable UC income for Claimant's spouse of \$1191. Subtracting \$1191 from the updated total unearned income leaves \$394 in unearned income; this amount is presumed to be the amount of that DHS calculated to be Claimant's UC income as there was no other unearned income.

DHS stated that their computer system automatically calculated Claimant's UC income based on Claimant's actual UC payments. DHS also stated that Claimant's UC income was calculated based on what was known as of the date of the determination. DHS provided proof of Claimant's UC payment history (\$360 on 3/19/12, \$180 on 4/2/12, \$180 on 4/23/12 and \$180 on 6/4/12) but they could still not justify how \$394 was calculated as Claimant's monthly UC income. If DHS is unable to explain a budget calculation, the previous DHS decision is not likely to be affirmed. The amount found to be correct will be based on evidence presented at the hearing.

It is known that a 6/2012 FAP benefit calculation is at issue. Thus, Claimant's 6/2012 UC income is the best method to determine 6/2012.

Claimant stated that she is employed at Comerica Park and only works during baseball season. Claimant also stated that she stopped receiving UC benefits after 4/2012 except for one check (from 6/4/12) that was intended to be a back payment for 3/2012. Claimant's testimony could not be fully verified by her UC payment history. A UC payment from 6/4/12 with eligible weeks remaining on UC benefits is somewhat indicative of ongoing UC payments. However, a 6/4/12 payment after several weeks without UC payments is also supportive of Claimant's testimony. Based on the presented evidence, Claimant's testimony that she expects no further UC payments in the near future is found to be the best evidence to budget Claimant's UC income.

Applying Claimant's testimony to the FAP budget for 6/2012 would result in a \$180 UC income for Claimant. Thus, DHS should recalculate Claimant's FAP benefit eligibility for 6/2012 based on a \$180 UC income for Claimant.

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 for 6/2012. It is ordered that DHS:

- (1) recalculate Claimant's FAP benefit eligibility for 6/012 based on a monthly UC income for Claimant of \$180; and
- (2) supplement Claimant for any FAP benefits not previously received as a result of the previous improper calculation.

The actions taken by DHS are REVERSED.



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

Date Signed: June 21, 2012

Date Mailed: June 21, 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:

