

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201257166
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: July 9, 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 July 9, 2012 from Detroit, Michigan. Participants included the above named claimant. 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 eligibility for Food Assistance Program (FAP) benefits effective 7/2012 as \$16/month.

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 5/25/12, Claimant reported to DHS that her spouse's Retirement Survivors, Disability Insurance was to be reduced to \$559 for 7/2012 only.
3. Claimant was part of a group size of two persons.
4. Claimant received \$1071/month in gross Retirement, Survivors and Disability Insurance (RSDI).
5. Claimant received \$160.78/month in private employer retirement income.

6. Claimant verified \$100/month in medical expenses.
7. Claimant had a mortgage obligation of \$584.91/month.
8. On 5/21/12, DHS determined that Claimant was eligible for \$16/month in FAP benefits effective 7/2012.
9. On 5/31/12, Claimant requested a hearing to dispute the FAP benefit issuance for 7/2012.

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 disputed a \$16/month FAP benefit issuance effective 7/2012. FAP benefits 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. After discussing all relevant FAP benefit factors, the only specific issues in dispute involved Claimant's spouse's income and medical expenses.

Claimant contended that she reported to DHS that her spouse's RSDI benefit was reduced to \$559 for 7/2012. It was verified that Claimant reported this change to DHS on 5/25/12 via letter. It was not disputed that DHS determined Claimant's FAP benefit eligibility by using a higher RSDI amount.

Generally, for all programs, the gross amount of RSDI is countable income. BEM 503 at 20. Amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income. BEM 500 at 4. It was not disputed that Claimant's spouse's RSDI was reduced due to overpayment. Thus, DHS erred in not budgeting \$559 in RSDI income for her spouse for purposes of 7/2012 FAP benefit eligibility.

Claimant also raised an issue concerning medical expenses. It was not disputed that Claimant's household had at least \$100/month in medical expenses and that DHS budgeted Claimant's medical expenses as \$100/month. Claimant testified that she and her spouse had additional medical expenses though she could not state whether she reported the expenses to DHS. It was presumed that DHS correctly did not consider additional medical expenses in the FAP benefit determination because Claimant could not state with any certainty that the expenses were reported. Thus, \$100 was the

amount of verified medical expenses and the correct amount to budget in determining FAP benefit eligibility.

It should be noted that an unofficial budget for Claimant's 7/2012 FAP benefit eligibility was performed during the hearing. The budget incorporated the change in RSDI income. Despite the reduction in income, Claimant's FAP benefit eligibility remained at \$16. If the budget was performed correctly, Claimant will not see any increase in FAP benefits.

DECISION AND ORDER

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

- (1) redetermine Claimant's FAP benefit eligibility for 7/2012 based on an RSDI amount of \$559 for her spouse; and
- (2) supplement Claimant for any FAP benefits, if any, not previously issued due to the incorrect RSDI budgeted for 7/2012.

The actions taken by DHS are REVERSED.



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

Date Signed: July 13, 2012

Date Mailed: July 13, 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:

