

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

IN THE MATTER OF:



Reg. No.: 201259583
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: July 18, 2012
County: Wayne DHS (41)

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 18, 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 Food Assistance Program (FAP) benefit eligibility 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 biweekly gross employment pays (see Exhibits 1-2) on the following dates: \$615.36 on 4/6/12 and \$539.68 on 4/20/12.
3. On 5/11/12, DHS determined Claimant's FAP benefit eligibility to be \$160/month effective 6/2012, in part, on a gross employment income of \$1262/month.
4. On 5/21/12, Claimant requested a hearing to dispute the FAP benefit determination for 6/2012.

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).

The present case concerns a dispute about FAP benefit eligibility effective 7/2012. Claimant seemed most upset by DHS' reliance on 4/2012 pays to prospect income for 6/2012.

Claimant testified that her employment income is unpredictable. Claimant also testified that her recent wages are less than the amount DHS projected. Thus, Claimant seemed to contend that DHS should recalculate the FAP benefit determination for 6/2012 based on her 7/2012 earnings; Claimant's contention is not supported by policy.

For non-child support income, DHS is to budget 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. DHS is to count the gross employment income amount. BEM 501 at 5.

Claimant submitted her check stubs from 4/6/12 and 4/20/12 to DHS. Claimant provided no evidence to suggest that DHS could have known that the submitted check stubs were inaccurate reflections of her future income. Thus, DHS properly factored the check stubs from 4/6/12 and 4/20/12 to prospect Claimant's income for 6/2012. If Claimant's income was recently reduced, the reduction is relevant to Claimant's future FAP benefit eligibility, not her past benefit eligibility. It is found that DHS properly relied on Claimant's check stubs from 4/6/12 and 4/20/12 to determine Claimant's FAP benefit eligibility for 6/2012.

DHS converts biweekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 at 6. Multiplying Claimant's average employment check by 2.15 creates a monthly budgetable income of \$1241 (dropping cents). DHS calculated a gross employment income of \$1262 for Claimant. DHS was not able to provide evidence of how the \$1262 monthly income was calculated. It is found that DHS erred in determining Claimant's gross employment income.

DHS also budgeted \$10 in Family Independence Program (FIP) benefits in the FAP benefit determination. Claimant stated that she verbally requested a termination of the FIP benefits. Claimant implied that DHS should not have factored income that she requested to stop. It was not disputed that Claimant received the \$10/month in FIP benefits. If Claimant received the income, the income should be counted. It is found that

DHS properly factored Claimant's \$10/month in FIP benefits into the FAP benefit determination.

It should be noted that Claimant did not request a FIP benefit hearing, only a FAP benefit hearing. Thus, the issue of whether DHS should have stopped Claimant's FIP benefit eligibility is not addressable by this administrative decision.

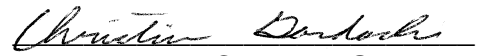
Claimant did not object to any other relevant FAP benefit variables such as group size, child care expenses or child support expenses. Thus, the only error found in the FAP benefit determination was the calculation of Claimant's employment income.

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) redetermine Claimant's FAP benefit eligibility, effective 6/2012, based on gross biweekly employment income of \$615.36 on 4/6/12 and \$539.68 on 4/20/12; and
- (2) supplement Claimant for any FAP benefits not received, if any, as a result of the improper FAP benefit determination.

The actions taken by DHS are REVERSED.


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

Date Signed: July 20, 2012

Date Mailed: July 20, 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:

