

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

IN THE MATTER OF:



Reg. No.: 201261801
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: August 1, 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 August 1, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager.

ISSUE

The issue is whether DHS properly determined Claimant's income prior to denying a Food Assistance Program (FAP) benefit application due to excess income.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On 6/19/12, Claimant applied for FAP benefits.
2. Claimant reported to DHS that he was recently laid-off from his employment.
3. In determining Claimant's FAP benefit eligibility, DHS relied, in part, on income Claimant received in 1/2012-3/2012.
4. On 6/26/12, DHS denied Claimant's application for FAP benefits due to excess income.
5. On 6/26/12, Claimant requested a hearing to dispute the FAP benefit denial.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

☒ The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) 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). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The present case concerns a FAP denial based on excess income. No budget was submitted and DHS did not identify how much income was calculated for Claimant's FAP benefit eligibility. DHS stated that Claimant's income was determined, in part, by factoring employment income that Claimant received in 1/2012-3/2012. DHS conceded that it was an error to consider 3-5 month old income to determine Claimant's income for purposes of FAP benefit eligibility.

DHS proposed that Claimant's last 30 days of income (prior to the application) be counted to determine Claimant's FAP benefit eligibility. Claimant stated that he reported an employment lay-off occurred within the 30 days prior to his application submission.

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. 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. *Id.* For stopping income, DHS is to budget the final income expected to be received in the benefit month. *Id.* at 6.

The DHS proposal to use Claimant's last 30 days of income was rejected because it does not reflect policy. Claimant's lay-off is a change that must be factored into the FAP benefit determination. Unfortunately, the record was unclear concerning Claimant's last pay date and whether Claimant's lay-off was verified. Thus, this administrative decision cannot order DHS to rely on specific income amounts when recalculating Claimant's income. However, it is known that DHS erred and a new FAP benefit eligibility determination is warranted. Claimant is entitled to request another hearing if he believes the yet to be made FAP benefit eligibility determination is incorrect.

DECISION AND ORDER

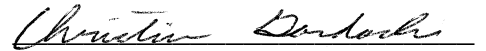
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for FAP benefits. It is ordered that DHS:

- (1) reinstate Claimant's application for FAP benefits dated 6/19/12;

(2) determine Claimant's eligibility in accordance with DHS regulations and subject to the finding that DHS erred by factoring 3-5 month old employment income into the income calculation; and

(3) supplement Claimant for any FAP benefits, if any, not received as a result of the improper denial.

The actions taken by DHS are REVERSED.



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

Date Signed: August 2, 2012

Date Mailed: August 2, 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:

