

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

IN THE MATTER OF:



Reg. No.: 201262280
Issue No.: 3015
Case No.:
Hearing Date: August 27, 2012
County: Wayne DHS (19)

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 27, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included , Specialist, and , Manager.

ISSUE

The issue is whether DHS properly determined Claimant to be income ineligible for Food Assistance Program (FAP) benefits.

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 reported the following gross employment biweekly pays and pay dates to DHS: \$170.88 on 1/13/12, \$626.38 on 1/27/12 and \$1428.86 on 2/10/12.
3. DHS subsequently learned that Claimant began receiving unemployment compensation (UC) benefits.
4. Claimant received \$1085/month in gross UC benefits.
5. Claimant reported no changes to her employment income to DHS despite the commencement of UC benefits.

6. On 6/1/12, DHS terminated Claimant's FAP benefit eligibility effective 7/2012 due to excess income, in part, based on budgeting \$1595 in gross employment income.
7. On 6/27/12, Claimant requested a hearing to dispute the FAP benefit termination.

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 questioned the validity of the DHS decision terminating her FAP benefit eligibility effective 7/2012. The only issue in dispute was whether DHS accurately determined Claimant's income eligibility.

It was established that the DHS determination in dispute budgeted \$1595/month in gross employment income and \$1085 in unearned income (from UC benefits). Claimant did not dispute the unearned income determination but questioned the accuracy of the amount DHS budgeted for her employment income.

DHS determined Claimant's employment income based on Claimant's last verified pays from 1/13/12, 1/27/12 and 2/10/12. DHS converts biweekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 (10/2010), p.6. Multiplying the average biweekly pay by 2.15 results in an income of \$1595, the same amount calculated by DHS.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (5/2012), p. 7. Changes must be reported within 10 days of receiving the first payment reflecting the change. *Id.*

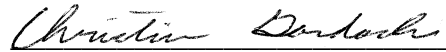
Claimant testified that her income changed since 2/2012. Claimant also conceded that she never reported any income decrease to DHS. Though DHS relied on outdated income information, DHS cannot be faulted for doing so when Claimant never reported any change in the income. Thus, DHS properly determined Claimant's FAP benefit eligibility based on a monthly employment income of \$1595.

It was thought that Claimant's gross income made her ineligible for continuing FAP benefit eligibility; this was not the case (see Exhibit 1). It is very plausible that Claimant's net income (i.e. her income after allowed expenses are factored) made her ineligible for ongoing FAP benefits based on the proximity of her gross income (\$2680)

to the gross income limit (\$3090) but it cannot be stated with certainty based on the presented evidence. Claimant did not raise any other specific budget problems. Based on the presented evidence, it is found that DHS correctly determined Claimant's FAP benefit eligibility as \$0, effective 7/2012.

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 7/2012 due to excess income. The actions taken by DHS are AFFIRMED.



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

Date Signed: August 29, 2012

Date Mailed: August 29, 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:

