

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201268238
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: September 6, 2012
County: Wayne DHS (18)

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 September 6, 2012 from Detroit, Michigan. Participants included the above named claimant; [REDACTED] testified on behalf of Claimant and appeared as Claimant's translator and authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED], Supervisor.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) benefit eligibility effective 8/2012.

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's FAP benefit eligibility was subject to review, effective 8/2012.
3. Claimant was part of a household of two persons.
4. Claimant received Retirement, Survivor, Disability Insurance (RSDI) of \$395/month, federal Supplemental Security Income of \$229.50/month and state-issued SSI averaging \$14/month.

5. Claimant's spouse received RSDI of \$174/month, federal-issued SSI of \$249.50/month and state-issued SSI of \$14/month.
6. On 6/29/12, DHS determined Claimant's FAP benefit eligibility, effective 7/2012, in part, based on a FAP benefit group income of \$1201 (see Exhibit 1).
7. On 8/1/12, Claimant requested a hearing to dispute the FAP benefit determination effective 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 requested a hearing to dispute a FAP benefit redetermination effective 7/2012. Claimant clarified that his request was based on a general dissatisfaction with the amount of FAP benefits issued by DHS. In response to Claimant's dissatisfaction with the FAP benefit issuance, all FAP benefit budget factors were considered. FAP benefit budget factors include: income, standard deduction, mortgage expenses utility credit, medical expenses, child support expenses, day care expenses, group size and senior/disability/disabled veteran status. DHS provided a FAP benefit budget (Exhibit 1) which provided all of the figures that were used to determine Claimant's FAP benefit eligibility. Each of the figures was discussed with Claimant and there was only a discrepancy between Claimant's reported income and the DHS budgeted income.

Claimant provided testimony that he received a total of \$638.50 in income between RSDI, SSI and state-issued SSI. Claimant also testified that his spouse received a total of \$437.50 from the same sources as Claimant. DHS agreed with the numbers provided by Claimant. The total household income is found to be \$1076.

The provided DHS budget established that DHS calculated a \$1201/month income for Claimant and his spouse. DHS was unable to clarify how the \$1201 income was calculated. Based on the presented evidence, it is found that DHS erred in determining Claimant's FAP benefit group's income in determining Claimant's FAP benefit eligibility.

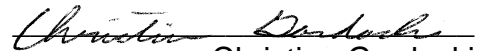
Prior to the conclusion of the hearing, Claimant noted that he had the following expenses which were not factored by DHS: vehicle repairs, gasoline, clothes and shoes. None of Claimant's expenses are relevant to a FAP benefit determination and were properly ignored by DHS.

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 eligibility for FAP benefits. It is ordered that DHS:

- (1) redetermine Claimant's FAP benefit eligibility, effective 7/2012, subject to the finding that Claimant's FAP benefit group has \$1076/month of income; and
- (2) supplement Claimant for any FAP benefits not issued due to the income budgeting error.

The actions taken by DHS are REVERSED.


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

Date Signed: September 12, 2012

Date Mailed: September 12, 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

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cc:

