

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

IN THE MATTER OF:



Reg. No.: 201273677
Issue No.: 2000 3015
Case No.: [REDACTED]
Hearing Date: October 1, 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 October 1, 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 that Claimant's income exceeded the gross income limit for Food Assistance Program (FAP) benefit eligibility.

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 was a member of a three-person FAP benefit group.
3. Claimant received gross pays of \$1863.46 on 7/9/12 and \$1053.92 on 7/23/12.
4. On 8/23/12, DHS determined that Claimant was ineligible for FAP benefits, effective 9/2012, for exceeding the gross income limit for Claimant's group size.
5. On 8/27/12, Claimant requested a hearing to dispute the FAP benefit termination.

6. Claimant stated that she requested a hearing to dispute a failure by DHS to process Medical Assistance (MA) benefits for 9/2012 for her children.
7. Claimant conceded that DHS eventually processed MA benefit eligibility for 9/2012 for her children and that there is no longer an MA benefit dispute.

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).

Claimant requested a hearing to dispute a FAP benefit termination effective 9/2012. BEM 556 outlines the steps for processing a FAP benefit budget. The first step is to calculate a group's gross income.

Claimant testified that her pay from 7/9/12 included \$316.64 in personal leave income that should have been included in the check from 7/23/12. For purposes of this decision, Claimant's contention will be accepted as correct. Reducing the personal leave pay from the check dated 7/9/12 creates a gross income of \$1546.82 for that check. Adding the \$316.64 to the pay from 7/23/12 creates an income of \$1370.76.

Claimant noted that her pay from 7/9/12 included a ninth day of work but she testified that she often works only eight days in a pay period. Claimant's testimony implied that the check dated 7/9/12 was unrepresentative of her earnings. DHS may discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. BEM 505 (10/2010), p. 4. Claimant presented a recent check stub which verified 64 hours of work and gross earnings near \$1370.76. DHS responded that Claimant presented stubs in 2011 with the amounts of: \$1492.88, \$1312, \$1478 and \$1486.11; the check stubs were closer to an income of \$1546.82 than the pay for the amount of \$1370.76.

Had Claimant presented consecutive pay stubs to support the contention that the nine workday pay check was unrepresentative, her argument would have been more convincing. By presenting only one check, it gave the appearance that Claimant was cherry-picking her lowest pay stubs. Also, prior to submitting the check dated 7/9/12, Claimant took the time to note in writing that the check wrongly included pay for her personal leave; Claimant did not note any such problems concerning working extra hours. Based on the presented evidence, it is found that DHS properly did not exclude the pay dated 7/9/12 as unrepresentative.

DHS is to count the gross employment income amount. BEM 501 (7/2012), p. 5. 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 Claimant's bi-weekly gross pays by 2.15 results in a countable income of \$3136 (dropping cents).

If a FAP benefit group's gross income is at or below 200% of the poverty level and they meet the asset test, they are also categorically eligible for FAP benefits. BEM 213 (1/2011), p. 1. DHS is to deny FAP benefits to non-Senior/Disabled/Disabled Veteran groups who are not categorically eligible if gross income exceeds the gross income maximum in RFT 250. BEM 556 (10/2011), p. 3. The gross income limit as of 8/2012 for a three-person FAP benefit group was \$3090. RFT 250 (10/2011), p. 1. Claimant's group is a non-SDV FAP benefit group because there is no senior, disabled or disabled veteran member. Claimant's gross income (\$3136) exceeded the gross income limit (\$3090) for a three-person FAP benefit group. Accordingly, DHS properly terminated Claimant's FAP benefit eligibility effective 9/2012.

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 benefit eligibility effective 9/2012 due to Claimant's FAP benefit group's gross income exceeding the gross income limits. The actions taken by DHS are AFFIRMED.



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

Date Signed: 10/10/2012

Date Mailed: 10/10/2012

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:

