

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201276104
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: October 25, 2012
County: Oakland DHS (02)

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 25, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Supervisor.

ISSUE

The issue is whether DHS properly redetermined Claimant's eligibility for Food Assistance Program (FAP) benefits effective 9/2012.

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 scheduled for redetermination beginning 9/2012.
3. Claimant submitted check stubs to DHS with the following gross income amounts and pay dates: \$941 on 7/6/12 and \$1055.15 on 7/20/12.
4. DHS redetermined Claimant's monthly income by factoring only Claimant's pay from 7/20/12.
5. On 8/27/12, DHS determined that Claimant was over-income for continuing FAP benefit eligibility.

6. On 9/4/12, Claimant requested a hearing to dispute the FAP benefit redetermination.

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. 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. A budget summary of the figures used in the benefit redetermination were discussed with Claimant. Claimant only objected to the DHS calculation of earned income of \$2268.

Claimant complained that DHS used her gross employment income rather than her net employment income. DHS is to count the gross employment income amount. BEM 501 (7/2012), p. 5. It is found that DHS properly relied on Claimant's gross income.

DHS stated that the pay dates from 7/6/12 and 7/20/12 were used to calculate Claimant's earned income. 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 income by 2.15 results in a countable income of \$2145, over \$100 less than what DHS calculated. DHS presumably only used the check stub from 7/20/12 to project Claimant's income because the monthly budgeted income was \$2268 ($\$1055.15 \times 2.15 = \2268); DHS could not provide any explanation for why the 7/6/12 check was ignored. It is found that DHS erred in calculating Claimant's income for purposes of FAP benefit eligibility.

Claimant noted that her pays from 7/2012 included significant overtime that Claimant no longer receives. For purposes of Claimant's 9/2012 eligibility, Claimant was given an opportunity to provide DHS with more current income but still appropriate for a 9/2012 benefit determination. Claimant provided DHS with check stubs from 9/14/12 and 9/28/12. Those will be the check stubs that DHS should budget in the yet to be made FAP benefit determination.

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 effective 9/2012. It is ordered that DHS:

- (1) budget Claimant's pays from 9/14/12 and 9/28/12 to determine Claimant's FAP benefit eligibility effective 9/2012; and
- (2) supplement Claimant for any FAP benefits, if any, not received 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: 10/30/2012

Date Mailed: 10/30/2012

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:

