

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201314961
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: January 7, 2013
County: Wayne DHS (55)

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 January 7, 2013 from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly failed to factor Claimant's reported rent in a Food Assistance Program (FAP) eligibility determination effective 12/2012.

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 since 9/2012.
2. Claimant was responsible for a \$450/month rent.
3. Claimant reported the rental obligation to DHS.
4. DHS failed to request verification of the rent obligation.
5. On 11/16/12, DHS reduced Claimant's FAP benefit eligibility effective 12/2012, in part, based on a \$0/month rental obligation.

6. On 11/26/12, Claimant requested a hearing to dispute the FAP benefit determination effective 12/2012.

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).

Claimant requested a hearing to dispute a FAP benefit redetermination effective 12/2012. 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. The budget factors relied on by DHS were discussed with Claimant during the hearing. Claimant only objected to the failure by DHS to budget a rental obligation.

It was not disputed that Claimant was eligible for FAP benefits effective 9/2012. It was not disputed that he reported a rental obligation of \$450/month to DHS. It was not disputed that DHS failed to factor Claimant's rental obligation in the FAP benefit determinations since 9/2012. Claimant conceded he did not submit verification of the obligation. Claimant also testified verification was not submitted because DHS never requested the verification.

DHS is to allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554 (10/2012), p. 10. DHS is to verify shelter expenses at application and when a change is reported. *Id.*, p. 11. DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (5-2012), p. 3.

DHS was given an opportunity to verify whether a request was made for verification of Claimant's rental obligation. After checking their database, DHS conceded that no request was made. The failure by DHS to request verification of Claimant's rental obligation is reversible error.

Claimant presented DHS with acceptable verification of the \$450 rental obligation at hearing. Thus, DHS has no reason to request further verification of the obligation from Claimant.

Consideration was made as to how far back DHS should have to correct Claimant's FAP benefit eligibility. Claimant's hearing request was tied to a DHS case action affecting Claimant's FAP benefit eligibility beginning 12/2012; this supports a finding that DHS should only have to recalculate Claimant's FAP benefit eligibility beginning 12/2012. Generally, clients are allowed to dispute DHS actions occurring within the 90

days prior to a hearing request submission (see BAM 600). Allowing Claimant this courtesy would justify ordering a benefit redetermination starting with 9/2012; the courtesy will be extended to Claimant.

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 FAP benefit eligibility. It is ordered that DHS:

- (1) recalculate Claimant's FAP benefit eligibility effective 9/2012, subject to the findings that DHS erred by failing to request verification of Claimant's rent and that Claimant verified a \$450/month rental obligation; and
- (2) supplement Claimant for any FAP benefits not issued as a result of the DHS error.

The actions taken by DHS are REVERSED.



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

Date Signed: January 14, 2013

Date Mailed: January 14, 2013

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:

