

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201329270  
Issue No.: 1000, 3002  
Case No.: [REDACTED]  
Hearing Date: June 24, 2013  
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, an in-person hearing was held on June 24, 2013, from Taylor, Michigan. Participants included the above-named claimant. [REDACTED] testified and appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, [REDACTED], PATH Coordinator, and [REDACTED], Specialist.

**ISSUES**

The first issue is whether Claimant is entitled to administrative adjudication of an issue previously disposed of by administrative hearing.

The second issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) benefit eligibility for the benefit month of 2/2013.

**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 and Family Independence Program (FIP) benefit recipient.
2. On an unspecified date, DHS properly imposed an intentional program violation (IPV) against Claimant.

3. On 10/17/12, DHS mailed Claimant a Notice of Case Action (Exhibits 7-13) informing Claimant of a FAP benefit issuance of \$481 and termination of FIP eligibility, effective 11/2012.
4. On 10/25/12, Claimant requested a hearing to dispute the FAP and FIP actions from 10/17/12.
5. On an unspecified date, DHS mailed Claimant a Notice of Case Action, informing Claimant of a FAP benefit issuance of \$463, effective 2/2013.
6. On 2/7/13, Claimant submitted to DHS a Request for Hearing disputing an unspecified FAP benefit determination which Claimant clarified to be for 2/2013.
7. Claimant testified that she no longer disputed the FIP benefit termination.

### **CONCLUSIONS OF LAW**

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) 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). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that Claimant's hearing request dated 10/17/12 progressed to an administrative hearing scheduled on 4/15/13. Claimant failed to attend the 4/15/13 hearing. Though Claimant could be barred from disputing the substance of the hearing request dated 10/17/12, there appeared to be reason for confusion based on multiple hearing requests and subsequent in-person hearing requests. In the interest of due process, Claimant's 10/17/12 was not dismissed despite her failure to attend a previously scheduled administrative hearing for which she did not appear.

Claimant requested a hearing, in part, to dispute a FAP benefit determination, effective 11/2012. Prior to a budget analysis, a discussion of group composition must be addressed.

It was not disputed that Claimant was part of a five person household. In determining Claimant's FAP eligibility, DHS factored a four-person group. It was discovered that DHS imposed an intentional program violation (IPV) against Claimant beginning in 11/2012.

A disqualified person is one who is ineligible for FAP because the person refuses or fails to cooperate in meeting an eligibility factor. BEM 212 (11/2012), p. 4. Individuals

may be disqualified for various reasons, include for committing an intentional program violation. *Id.*

Though it is clear that DHS regulations allow the imposition of an IPV disqualification, it must then be established that DHS properly imposed the disqualification against Claimant. The client/authorized representative (AR) is determined to have committed an IPV by:

- A court decision.
- An administrative hearing decision.
- The client signing a DHS-826, Request for Waiver of Disqualification Hearing or DHS-830, Disqualification Consent Agreement or other recoupment and disqualification agreement forms.

BAM 720 (8/2012), p.1.

An IPV was not definitively established by one of the three above methods, however, it was not perceived to be an issue in serious dispute. DHS presented testimony that Claimant was investigated for FAP trafficking, which led to an IPV disqualification. At one point during the hearing, Claimant essentially conceded full knowledge of prior IPV proceedings. If Claimant truly disputes that an IPV was properly implemented without due process, Claimant can raise that specific issue in a future hearing request. Based on the presented evidence, DHS established a basis for an IPV disqualification against Claimant. Accordingly, DHS established a basis for a four person FAP benefit group.

The remaining analysis applies to the budget procedures. BEM 556 outlines the proper procedures for calculating FAP benefit eligibility.

It was not disputed that Claimant received \$694/month in FIP benefits. Claimant had no other income.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (11/2012), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, DHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members. For groups containing SDV members, DHS also considers the medical expenses for the SDV group member(s) and an uncapped excess shelter expense. It was not disputed that Claimant's FAP benefit group had no SDV members.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. DHS applies a \$35/month copayment to monthly medical expenses. Claimant did not allege to have any day care, medical or child support expenses.

Claimant's FAP benefit group receives a standard deduction of \$159. RFT 255 (10/2012), p. 1. The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is also

subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$535.

It was not disputed that Claimant's monthly housing expense was \$107. DHS gives a flat utility standard to all clients. BEM 554 (1/2011), pp. 11-12. The utility standard of \$575 (see RFT 255 (10/2012, p. 1) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$575 amount. The total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$682.

DHS only credits FAP benefit groups with what DHS calls an "excess shelter" expense. This expense is calculated by taking Claimant's total shelter obligation and subtracting half of Claimant's adjusted gross income. Claimant's excess shelter amount is found to be \$415 (rounding up to nearest dollar).

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. The FAP benefit group's net income is found to be \$120. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's proper FAP benefit issuance is found to be \$632. Due to the IPV, further calculations must be performed.

For IPV recoupments, FAP benefits are reduced for recoupment by a percentage of the monthly FAP entitlement. BEM 725 (8/2012), p. 6. The entitlement amount is the amount of FAP a group would receive if any intentional program violation-disqualified members were included in the eligible group. *Id.* The standard administrative recoupment percentage for FAP is 20 percent (or \$20, whichever is greater) for intentional program violation. *Id.*

Determining the amount of FAP benefits that DHS may recoup from Claimant requires returning to RFT 260 to determine the FAP benefit amount based on net income of \$120 and a five-person group; that amount is \$757. Calculating 20% of \$757 results in a recoupment amount of \$151. Subtracting the \$151 from \$632 results in a net benefit issuance to Claimant of \$481, the same amount as calculated by DHS.

Claimant testified that she received less than \$481 in FAP benefits for 11/2012. Claimant's testimony was unverified. She also never specified the issue in her hearing request. DHS presented a budget verifying a \$481 FAP benefit issuance and a notice informing Claimant of a \$481 issuance. The DHS evidence was persuasive in establishing a \$481 FAP benefit issuance.

Claimant also requested a hearing on 2/7/13 to dispute an unspecified FAP benefit determination. Claimant's request failed to allege which determination was in dispute. Claimant testified that she disputed a 2/2013 determination.

The analysis of above applies equally to a 2/2013 determination except as follows: Claimant's FIP income was \$744, the adjusted gross income was \$585, the excess shelter deduction was \$390, the gross benefit FAP amount was \$609, the recoupment amount was \$146 and the net benefit issuance was \$463 (see Exhibits 14-16). It is found that DHS properly determined Claimant's FAP benefit eligibility for 2/2013.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact, conclusions of law accepts Claimant's withdrawal of a FIP benefit termination dispute. Claimant's hearing request is PARTIALLY DISMISSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FAP benefit eligibility for 11/2012 and 2/2013. The actions taken by DHS are AFFIRMED.



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

Date Signed: 7/3/2013

Date Mailed: 7/3/2013

**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.

2013-29270/CG

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:

