

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-29974  
Issue No.: 3015  
Case No.: [REDACTED]  
Hearing Date: March 20, 2013  
County: Oakland (03)

**ADMINISTRATIVE LAW JUDGE:** Zainab Baydoun

**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 conducted on Wednesday, March 20, 2013 from Detroit, Michigan. The Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was [REDACTED], Assistance Payment Supervisor.

**ISSUE**

Due to excess income, did the Department properly close Claimant's Food Assistance Program (FAP) case?

**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 recipient of FAP benefits.
2. On February 8, 2013, the Department sent Claimant a Notice of Case Action informing her that effective March 1, 2013, her FAP case would close due to excess income.
3. On February 16, 2013, Claimant filed a hearing request disputing the Department's actions.

## CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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. Rule 400.3001 through Rule 400.3015.

Additionally, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2013), pp. 1 – 3. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2010), p. 1. In calculating a client's earned income, the Department must determine a best estimate of income expected to be received by the client during a specific month. BEM 505 (October 2010), p. 2. In prospecting income, the Department is required to use income from the past thirty days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 4. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 6. Income received biweekly is converted to a standard amount by multiplying the average of two biweekly paychecks by the 2.15 multiplier. BEM 505, pp. 6-7.

Money earned from Retirement, Survivors, Disability Insurance (RSDI) and unemployment benefits is included in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (November 2012). Child support is money paid by an absent parent(s) for the living expenses of children and is considered unearned income. The total amount of court-ordered direct support (which is support an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU)) is counted as unearned income and is considered in the calculation of a client's gross unearned income. BEM 503 (November 2012), pp. 5, 7; BEM 556 (October 2011), p. 2. However, certified medical support, which is court-ordered support that MiSDU sends to the Department due to a child's receipt of assistance, is *excluded* from the calculation of unearned income for FAP budgets. BEM 503, pp. 5-6.

In this case, the Department sent Claimant a Semi-Annual Contact Report on January 2, 2013 which was to be completed and returned by February 1, 2013. (Exhibit 1, pp. 22-23). Claimant reported that her hours at work had decreased and provided the Department with check stubs as verification. Claimant's FAP budget was recalculated and the Department determined that Claimant was no longer eligible to receive FAP benefits because her net income was \$2,005.00, which exceeded the limit. For FAP

purposes, the applicable FAP net income limit for Claimant's group size of three is \$1,591.00. RFT 250 (October 2012), p. 1.

On February 8, 2013, the Department sent Claimant a Notice of Case Action informing Claimant that her FAP case would close, effective March 1, 2013 due to excess income. (Exhibit 1, pp. 5-10). At the hearing, the FAP Budget Summary from the February 8, 2013 Notice of Case Action was reviewed. The Department properly calculated Claimant's earned income to be \$1,322.00. As required by BEM 505, Claimant's income was converted to a standard monthly amount by multiplying the average of her two paychecks (\$612.87 and \$617.06) by the 2.15 multiplier. (Exhibit 1, pp-20-21).

The Department concluded that Claimant had unearned income of \$1,261.00 which came from three sources: unemployment compensation, RSDI benefits for Claimant's son, and child support for Claimant's son. The Department relied on a consolidated inquiry to determine that Claimant was receiving \$456.00 in unemployment compensation every two weeks. (Exhibit 1, p. 14). The SOLQ presented shows that \$228.00 is received monthly in RSDI benefits. (Exhibit 1, p.17). The Department testified that it calculated Claimant's unearned income from child support to be \$80.72 by adding \$25.88 for Child Support Certified Medical and \$54.84 for Child Support Direct. (Exhibit 1, p. 13).


Claimant verified the amounts used by the Department to determine her earned income and her housing costs. Claimant also confirmed that her FAP group size was three. A review of the FAP budget shows that the Department properly applied the \$148.00 standard deduction applicable to Claimant's group size and the \$575.00 standard heat and utility deduction available to all FAP recipients. RFT 255 (October 2012), p 1; BEM 554 (October 2012), pp. 11-12. Claimant did not dispute the amounts used by the Department for her unearned income from unemployment compensation and RSDI. Claimant did, however, raise a concern regarding the calculation of her unearned income from child support. As discussed above, court ordered, certified medical support is excluded from the calculation of unearned income for FAP budgets. BEM 503, pp 5-6. Therefore, the Department improperly included \$25.88 in certified medical child support as part of Claimant's unearned income. This error by the Department however, is harmless. Without the inclusion of the certified child medical support, Claimant's net income was \$1,979.00, which still exceeds the net income limit of \$1,591.00 for a group size of three. RFT 250, p. 1. As such, the Department acted in accordance with Department policy when it closed Claimant's FAP case due to excess income.

At the hearing, Claimant indicated that because her hearing request was filed timely, she should have continued to receive her FAP benefits pending the outcome of the hearing. Although the Department did not continue to provide Claimant with her FAP benefits pending the outcome of the hearing, as required under BAM 600, this error also proved to be harmless. BAM 600 (February 2013) p. 18. Because the Department acted in accordance with Department policy in this case and this decision upholds the Department's action, had Claimant continued to receive FAP benefits pending the outcome of this decision, the Department would be entitled to recoupment of any

benefits provided to Claimant that she was not entitled to receive. BAM 600, p. 20; BAM 700 (February 2013), p. 5.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department acted in accordance with Department policy when it closed Claimant's FAP case due to excess income. Accordingly, the Department's decision is AFFIRMED.

  
\_\_\_\_\_  
**Zainab Baydoun**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: March 28, 2013

Date Mailed: March 28, 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 affect the substantial rights of the claimant:
  - 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

ZB/cl

cc:

