

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201337089
Issue No.: 3019
Case No.: [REDACTED]
Hearing Date: April 25, 2013
County: Oakland (04)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 April 25, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Assistance Payment Supervisor.

ISSUE

Did the Department properly calculate Claimant's monthly Food Assistance Program (FAP) allotment for the period for March 2013 ongoing?

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 is an ongoing recipient of FAP benefits.
2. On February 26, 2013, the Department sent Claimant a Notice of Case Action notifying her that she was eligible for FAP benefits of \$19 per month effective March 1, 2013.
3. On March 14, 2013, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), the Department of Human Services Bridges Eligibility Manual (BEM), and the Department of Human Services 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, R 400.3001 through R 400.3015.

At the hearing, the Department testified that on February 4, 2013, Claimant notified the Department that she was receiving \$900 monthly from her brother to assist her with housing expenses. The Department sent Claimant a February 7, 2013 Verification Checklist (VCL) requesting a letter or document from the person making the payment by February 19, 2013. The VCL expressly required that the letter from Claimant's brother "must be signed, dated with contact phone number." (Exhibit 8.) Claimant responded on February 19, 2013 by submitting a typed letter dated February 11, 2013 from her brother stating that he lent her a total of \$900 monthly beginning October 2012. The letter was not signed. (Exhibit 3.) The Department concluded that the \$900 was a contribution from the brother to Claimant and recalculated Claimant's FAP budget to include the \$900 as unearned income. On February 26, 2013, the Department sent Claimant a Notice of Case Action notifying her that effective March 1, 2013, her monthly FAP benefits would decrease to \$19 (Exhibit 1.) Claimant requested a hearing disputing the Department's FAP calculation. At the hearing, the sole issue was the Department's characterization of the \$900 received by Claimant from her brother.

A donation to an individual by family or friends outside the individual's FAP group is the individual's unearned income. BEM 503 (November 2012), p 8. However, funds an individual borrows are not considered income to the individual provided that the transaction, including a loan by oral agreement, is a bona fide loan. BEM 503, p 18; BEM 500 (January 2013), p 6. A bona fide loan requires each of the following: (i) a loan contract or the lender's written statement clearly indicating the borrower's indebtedness; (ii) an acknowledgment from the borrower of the loan obligation; and (iii) the borrower's expressed intent to repay the loan by pledging real or individual property or anticipated income. BEM 503, p 18; BEM 500, p 6.

The February 11, 2013, typewritten letter presented to the Department by Claimant that Claimant contends established that the money she received from her brother was a loan does not meet the criteria for a bona fide loan. Because it is not signed, the Department could not verify that there was a written statement by the lender indicating the borrower's indebtedness. Furthermore, the letter does not clearly establish Claimant's intent to repay the loan. Thus, the Department acted in accordance with Department policy when it concluded that the money Claimant received from her brother did not

meet the criteria for a bona fide loan and treated it as unearned income in her FAP budget.

While testimony at the hearing also referenced Claimant's notice to the Department that she had stopped receiving money from her brother and Claimant's concern that the Department failed to process this change for her April 2013 FAP benefits, the Department's actions arose after Claimant requested the present hearing on March 14, 2013. Therefore, they are not considered in this Hearing Decision. However, Claimant is advised that she can request a hearing concerning her April 2013 FAP benefits.

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 characterized the \$900 from Claimant's brother as a contribution to Claimant and calculated Claimant's FAP budget for March 1, 2013 ongoing to include \$900 in unearned income. Accordingly, the Department's FAP decision is AFFIRMED.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/30/2013

Date Mailed: 4/30/2013

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

ACE/hw

cc:

