

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201339025
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 Detroit, 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.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) benefit eligibility for the benefit month of 4/2013.

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. Claimant received weekly gross employment income of: \$140.60 on 3/1/13, \$59.20 on 3/8/13, \$253.45 on 3/15/13 and \$118.40 on 3/22/13.
3. On an unspecified date, DHS properly imposed an intentional program violation (IPV) against Claimant for the period of 11/2012-10/2013.

4. On an unspecified date, DHS mailed Claimant a Notice of Case Action informing Claimant of a FAP benefit issuance of \$360, effective 5/2013.
5. On an unspecified date, DHS mailed Claimant a Notice of Case Action informing Claimant of a FIP benefit termination.
6. On 4/1/13, Claimant requested a hearing to dispute a FIP benefit termination and an unidentified FAP benefit reduction.
7. Claimant testified that she did not wish to dispute 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).

Claimant submitted a Request for Hearing to DHS on 4/1/13. The Request for Hearing clearly outlined a dispute concerning a FIP benefit termination. Claimant testified that she wanted to dispute a FAP benefit determination, though she could not identify a specific month in dispute. Claimant's only reference to a FAP benefit dispute was a checkmark in response to a question asking if Claimant wanted to continue receiving FAP benefits. The Request for Hearing was not tied to a specific DHS case action. During the hearing, it was decided for Claimant (without objection), that she intended to dispute a FAP benefit determination from 5/2013. 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 disqualified Claimant from the group because of an intentional program violation (IPV). It was determined in a hearing held immediately prior to the hearing that is the subject of this decision (see Registration# 201329270) that DHS established a basis for the IPV disqualification. In this hearing, Claimant did not raise a dispute concerning IPV disqualification. Thus, DHS established a basis for determining Claimant's FAP eligibility based on 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 \$537/month in FIP benefits. Claimant also received employment income.

DHS converts weekly non-child support income into a 30 day period by multiplying the income by 4.3. BEM 505 (10/2010), p. 6. Multiplying Claimant's weekly income by 4.3 results in a monthly employment income of \$614, the same amount calculated by DHS.

DHS counts 80% of a FAP member's timely reported monthly gross employment income in determining FAP benefits. Applying the 20% deduction to the employment income creates a countable monthly employment income of \$491 (dropping cents). Adding the countable employment income and FIP benefits results in a total countable income of \$1028.

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 \$869.

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 \$248 (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 \$621. 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 \$481. 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.*

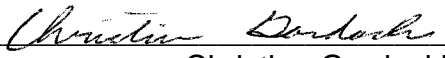
Determining the amount of FAP benefits that DHS may recoup from Claimant requires returning to RFT 260 to determine the FAP benefit amount based on net income of \$621 and a five-person group; that amount is \$606. Multiplying 20% and \$606 results in a recoupment amount of \$121. Subtracting \$121 from \$481 results in a net benefit issuance to Claimant of \$360, the same amount as calculated by DHS.

Claimant testified that she received \$340 in FAP benefits for 5/2013. Claimant's testimony was unverified. She also never specified the issue in her hearing request. DHS presented a budget verifying a \$360 FAP benefit issuance. This is compelling evidence that DHS issued FAP benefits to Claimant of \$360. It is found that DHS issued \$360 in benefits to Claimant for 5/2013.

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 5/2013. 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.

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:

