

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013-41853
Issue No: 3015
[REDACTED]
Hearing Date: May 21, 2013
Manistee County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 May 21, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] and [REDACTED] [REDACTED].

ISSUE

Did the Department properly reduce the Claimant's benefits for the Food Assistance Program (FAP)?

FINDINGS OF FACT

I find as material fact, based on the competent, material, and substantial evidence on the whole record:

1. Claimant received benefits for FAP.
2. On April 9, 2013, the Department sent the Claimant a notice of case action. The notice indicated the Claimant's FAP benefits were being reduced.
3. On April 12, 2013, the Claimant requested a hearing in dispute of the FAP reduction.

CONCLUSIONS OF LAW

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

The 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 1999 AC, R 400.3001 through Rule 400.3015.

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Department determines a Client's eligibility for program benefits based on the Client's actual income and/ or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the Client's future income. All income is converted to a standard monthly amount. If the Client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the Client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505.

The Department uses past income to prospect income for the future and uses income from the past 60 to 90 days for fluctuating or irregular income if the past 30 days are not a good indicator of future income and the fluctuations of income during the past 60 to 90 days appear to accurately reflect the income that is expected to be received in the benefit month. BEM 505.

Irregular income is defined as income that is not received on a regular schedule or that is received unpredictably, such as a person self-employed. BEM 505.

In this case, there was no dispute as to how the Claimant's income was classified. The Claimant agreed that her earnings were from self-employment and that they were indeed sporadic. Because of this, I find that the Department properly classified the Claimant's income as irregular. In addition, I find that using just the past 30 days of income would be insufficient as it is not a good indicator of future income. However, I have some concern with the income the Department used in determining the Claimant's eligibility. The Department indicated they used the past 4 months of self-employment earnings. Policy indicates only the past 60-90 days. Because the Department used income that was from well past 90 days, I am reversing the Department in this matter.

DECISION AND ORDER

I find based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Department did not act properly in reducing the Claimant's FAP benefits.

Accordingly, the Department's FAP decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a redetermination as to the Claimant's eligibility for FAP benefits beginning May 1, 2013 and issue retroactive benefits if otherwise qualified and eligible.



Corey A. Arendt
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 22, 2013

Date Mailed: May 22, 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

CAA/las

cc:

