

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

IN THE MATTER OF:



Reg. No.: 2013-46604
Issue Nos.: 3015, 6031
Case No.: [REDACTED]
Hearing Date: June 6, 2013
County: Oakland (63-02)

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 June 6, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

1. Did the Department properly close Claimant's Food Assistance Program (FAP) case for excess income?
2. Did the Department properly deny Claimant's request for Direct Support Services (DSS) benefits to repair her automobile?

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. In connection with her FAP redetermination, Claimant reported new employment.
3. On April 5, 2013, Claimant submitted an application for DSS services for assistance with car repairs.
4. On April 8, 2013, the Department sent Claimant a Notice of Case Action informing her that, because of excess income, her FAP case closed effective April 1, 2013, and her DSS application was denied.

5. On May 6, 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), Department of Human Services Bridges Eligibility Manual (BEM), and 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.

Direct Support Services (DSS) is administered by the Department pursuant to MCL 400.57a, *et seq.*, and Mich Admin Code R 400.3603.

Closure of FAP Case

The Department recalculated Claimant's FAP budget in connection with a FAP redetermination during which Claimant reported new employment. In an April 8, 2013, Notice of Case Action, the Department notified Claimant that, effective April 1, 2013, her FAP case closed because her net income exceeded the net income limit.

Because Claimant's FAP group includes a Senior/Disabled/Veteran (SDV) member, the FAP group is eligible for FAP benefits only if the group's net income is below the net income limit. BEM 550 (February 1, 2012), p. 1. The FAP net income limit for a group size of three (Claimant and her two children) is \$1,591. RFT 250 (October 1, 2012), p. 1.

Because no FAP net income budget was provided with the hearing packet, the figures used by the Department as indicated in the Notice of Case Action were reviewed at the hearing. The Notice showed earned income of \$2,310 and unearned income of \$872.

The Department testified that the earned income was based on Claimant's employment verification showing that Claimant's annual pay was \$27,936. Claimant's biweekly pay based on her annual pay is \$1,074.46. This calculation is consistent with Claimant's reported weekly 40 hours of employment at an hourly rate of \$13.43. This biweekly income multiplied by 2.15, in accordance with Department policy, results in monthly earned income of \$2,310 when rounded up, consistent with the earned income figure on the Notice. BEM 505 (October 1, 2010), p. 6. Thus, the Department considered the correct earned income figure.

The Department testified that Claimant's unearned income of \$872 was based on the sum of her monthly child support, the monthly \$230 Supplemental Security Income (SSI) received by her daughter, and her daughter's monthly State SSI Payment (SSP)

of \$14 (based on quarterly \$42 payments). In calculating the monthly child support income, the Department testified that it averaged the amount of child support Claimant received for each of her two children in December 2012, January 2013, and February 2013, the three months preceding the redetermination month. See BEM 505 (October 1, 2010), pp. 3-4. At the hearing, Claimant testified that the child support she received from her daughter's father was consistent, as indicated in the consolidated report. Claimant acknowledged that she received an irregular pattern of child support payments from her son's father and that, at the time she completed the redetermination, she was not aware that her son's father's payment on January 24, 2013, was the last she would receive to the date of the hearing. Under these facts, the Department properly considered the child support income received by Claimant for both children as indicated on the consolidated inquiry for December 2012, January 2013, and February 2013 despite the variations in monthly amount she received from her son's father. See BEM 505, p. 3. The monthly average of these payments is \$628. The sum of Claimant's monthly child support and her daughter's SSI and SSP totaled \$872, as indicated in the Notice of Case Action. Thus, the Department properly calculated Claimant's unearned income.

The Notice showed that the Department did not consider Claimant's monthly \$800 housing expenses in determining her net income. The evidence established that Claimant's redetermination showed a change in shelter expenses from those previously reported and verified. The Department testified that it sent Claimant a Verification Checklist (VCL) on March 20, 2013, requesting, among other documents, verification of her rent amount because of this discrepancy. Although Claimant denied receiving the checklist, the Department testified that it received the other documents requested in the VCL by the April 1, 2013, due date, including a lease addendum, which did not state the rental amount. Under these facts, the Department properly requested the shelter verification and excluded this unverified expense from the calculation of her net income. See BEM 554 (October 1, 2012), p. 11.

The Notice of Case Action shows that Claimant's FAP budget included a \$148 standard deduction available to Claimant's FAP group size of three and the standard heat and utility deduction of \$575 available to all FAP recipients. RFT 255 (October 1, 2012), p. 1; BEM 550 (February 1, 2012), p. 1; BEM 554, pp. 11-12. Claimant's group was also entitled to an earned income deduction equal to 20% of the group's earned income (or \$462, in this case). RFT 255, p. 1.

The calculation of Claimant's net income based on the foregoing information and figures shows that Claimant had a net income that exceeded the FAP net income limit of \$1,591 applicable to a FAP group size of three. BEM 556 (July 1, 2011); RFT 250, p. 1. Thus, the Department acted in accordance with Department policy when it closed Claimant's FAP case.

At the hearing, Claimant contended that, because her new employment began March 4, 2013, and she did not receive her first paycheck until the end of March 2013, she was not income ineligible for the month of April 2013 and should have received FAP benefits for April 2013. However, when calculating a FAP budget during a redetermination, the Department prospectively income using a best estimate of income expected to be received

during the month. BEM 505, p. 2. Because Claimant acknowledged she would receive her first paycheck late March 2013, she would receive a full month's income beginning April 2013. Thus, the Department acted in accordance with Department policy when it found Claimant income ineligible as of April 1, 2013.

Denial of DSS Application

DSS are goods and services provided to help families achieve self-sufficiency and include Employment Support Service (ESS) which allows for vehicle repair. BEM 232 (January 1, 2013), p. 1. There is no entitlement for DSS. BEM 232, p. 1. The decision to authorize DSS is within the discretion of the Department or the work participation program. BEM 232, p. 1. A recipient of FIP, MA, CDC, or FAP must complete form DHS-3043 (TANF Eligibility Determination) to determine financial eligibility. However, no verification is required. BEM 232, p. 4.

In this case, Claimant marked in her TANF Eligibility Determination form that her monthly income for her household size of three was less than \$3,050. The Department denied Claimant's application because she was not income eligible, finding that she had monthly income of \$3,182. Claimant contends that the Department should have considered her income when she began the DSS application in March 2013, before she began receiving employment income. However, because employment is a condition of eligibility for vehicle repair assistance, it follows that Claimant's earned income from employment should be considered in determining her income eligibility. See BEM 232, p. 12. Because the total of Claimant's monthly earned income of \$2,310 and unearned income of \$872 exceeded \$3,052, the Department did not abuse its discretion when it denied Claimant's DSS application for assistance with vehicle repairs.

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 and denied her DSS application for vehicle repair assistance.

Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: June 12, 2013

Date Mailed: June 13, 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,
 - 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/pf

cc:

