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

IN THE MATTER OF:

[redacted]

Reg. No: 201313910
Issue No: 3015
Case No: [redacted]
Hearing Date: January 3, 2012
Genesee County DHS #2

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on November 26, 2012. After due notice, a telephone hearing was held on January 3, 2013. Claimant appeared and provided testimony. The department was represented by [redacted], an eligibility specialist with the department's Genesee County McCree District office.

ISSUE

Whether the department properly determined Claimant's Food Assistance Program (FAP) benefit eligibility for the benefit period effective November 1, 2012 through November 30, 2012 and for the benefit period beginning December 1, 2012?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was receiving FAP benefits at all times pertinent to this hearing in the amount of $[redacted] (Department Hearing Summary)

2. On November 13, 2012, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that he had been approved for FAP benefits in the amount of $[redacted] per month for the benefit period effective November 1, 2012 through November 30, 2012. The Notice further informed Claimant that he had been approved for FAP benefits in the amount of $[redacted] for the benefit period beginning December 1, 2012. (Department Exhibits A, B, C, D, E)

3. On November 22, 2012, Claimant submitted a hearing request regarding the department's determination of his FAP benefits eligibility. (Request for Hearing)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

The Food Assistance Program (FAP) was established pursuant to 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 administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015. Department policies for the program are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

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. BEM 505.

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.

Federal regulations at 7 CF 273.10 provide standards for income and the amount of household benefits. In accordance with the federal regulations, the department has prepared income and issuance tables which can be found at RFT 250 and RFT 260.

In this case, the department determined Claimant's eligibility for FAP benefits for the benefit period effective November 1, 2012 through November 30, 2012 based on the department's receipt of verifications of Claimant's wife's employment (two paystubs for October 19, 2012 and October 26, 2012 in the amounts of $[redacted] and $[redacted] respectively), which established that Claimant earns monthly income in the amount of $[redacted] Specifically, Claimant was being paid weekly at her employment Menard's, Inc., and the department determined her monthly income by multiplying her average weekly gross income of $[redacted] by a 4.3 conversion factor in accordance with the applicable department policy.

Claimant's group's total monthly income of $[redacted] *should have been but was not* reduced by a 20% earned income deduction of $400.00 and, after being further reduced by a standard deduction of $[redacted] should have left an adjusted gross income of $[redacted] and not the adjusted gross income amount of $[redacted] calculated by the department. And, assuming the department correctly calculated an excess shelter deduction of 0, Claimant's FAP benefit allotment for the benefit period of November 1, 2012 through November 30, 2012 for a group size of five with a monthly net income amount of $[redacted] should have been $[redacted] not the $[redacted] determined by the department. RFT 260. Accordingly, the department did *not* properly determine Claimant's FAP eligibility for the benefit period effective November 1, 2012 through November 30, 2012.

Furthermore, the department determined Claimant's eligibility for FAP benefits for the benefit period beginning December 1, 2012 based on the department's receipt of four paystubs from Claimant's wife's employment (paystubs for October 19, 2012, October 26, 2012, November 2, 2012, and November 9, 2012 in the amounts of $[redacted] $[redacted] $[redacted] $[redacted] respectively), which established that Claimant earns monthly income in the amount of $[redacted] Specifically, Claimant was being paid weekly at her employment Menard's, Inc., and the department determined her monthly income by multiplying her average weekly gross income of $[redacted] by a 4.3 conversion factor in accordance with the applicable department policy.

Claimant's group's total monthly income of $[redacted] was then reduced by a 20% earned income deduction of $[redacted] and by a standard deduction of $[redacted] which resulted in an adjusted gross income of $[redacted] A claimant with a group size of five with a monthly net income of $[redacted] is entitled to a monthly FAP benefit allotment of $[redacted] RFT 260. Accordingly, the department properly determined Claimant's FAP eligibility for the benefit period effective December 1, 2012.

The Administrative Law Judge finds that, based on the competent, material, and substantial evidence presented during the January 3, 2013 hearing, the department did *not* properly determine Claimant's FAP eligibility for the benefit period effective

November 1, 2012 through November 30, 2012. The Administrative Law Judge further finds that the department properly determined Claimant's FAP eligibility for the benefit period effective December 1, 2012.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not properly determine Claimant's FAP benefit allotment for the benefit period November 1, 2012 through November 30, 2012. Accordingly, the department's actions are **REVERSED** and the department shall immediately initiate a redetermination of Claimant's FAP benefit eligibility for the benefit period effective November 1, 2012 through November 30, 2012 and issue any supplemental checks if he is otherwise entitled to them.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, further decides that the department properly determined Claimant's FAP eligibility for the benefit period effective December 1, 2012. Accordingly, the department's actions in this regard are **UPHELD**.

IT IS SO ORDERED.

/s/_____
Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 4, 2013

Date Mailed: January 4, 2013

NOTICE: Michigan Administrative Hearings 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 Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal this Order to Circuit Court within 30 days of the receipt of the 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of 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 System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/cr

cc: [redacted]