

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201319424
Issue No: 3015
Case No: [REDACTED]
Hearing Date: January 30, 2013
Manistee County DHS

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 September 10, 2012. After due notice, a telephone hearing was held on January 30, 2013. Claimant appeared and provided testimony. [REDACTED], Claimant's designated SSI payee, also appeared and provided testimony on Claimant's behalf. The department was represented by [REDACTED], an eligibility specialist, and [REDACTED], a family independence manager, both with the department's Manistee County office.

ISSUE

Whether the department properly determined Claimant's Food Assistance Program (FAP) benefit eligibility?

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.
2. On December 14, 2012, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that effective January 1, 2013, his FAP benefit allotment would be decreased to \$ [REDACTED] per month due to a change in Claimant's net unearned income amount. (Department Exhibits A, B)
3. On December 26, 2012, Claimant submitted a hearing request protesting the department's determination of his monthly FAP benefit allotment. (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.

In this case, the department determined Claimant's eligibility for FAP benefits for the benefit period beginning January 1, 2013 based on Claimant's reported monthly receipt of \$ [REDACTED] in RSDI benefits. A standard deduction of \$ [REDACTED] was subtracted from Claimant's countable income, as was an excess shelter deduction of \$ [REDACTED] leaving a monthly net income of \$ [REDACTED].

Claimant's excess shelter deduction of \$ [REDACTED] was determined by adding Claimant's monthly housing expenses to the new \$ [REDACTED] heat and utility standard amount (per RFT 255, effective October 1, 2012) and subtracting half of Claimant's adjusted gross income. However, at the January 30, 2013 hearing, the department's representative acknowledged that the department did not properly calculate Claimant's

housing expenses because the department did not include Claimant's monthly property taxes in Claimant's housing expenses.

Consequently, this Administrative Law Judge finds that, based on the competent, material and substantial evidence presented during the hearing, and for the reasons stated on the record, the department did not properly determine Claimant's FAP benefit allotment for the benefit period beginning January 1, 2013.

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, decides that the department did not properly determine Claimant's FAP benefit allotment for the benefit period beginning January 1, 2013.

Accordingly, the department's actions are **REVERSED** and the department shall immediately recalculate Claimant's FAP benefit eligibility for the benefit period beginning January 1, 2013 and issue any supplemental checks if he is otherwise entitled to them.

It is **SO ORDERED**.

/s/_____

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

Date Signed: January 31, 2013

Date Mailed: January 31, 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:

