

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

IN THE MATTER OF:



Reg. No.: 2013-51642
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: July 3, 2013
County: Macomb DHS (20)

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, a telephone hearing was held on July 3, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly calculated Claimant's employment income in determining Food Assistance Program (FAP) benefit eligibility.

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 benefit recipient.
2. Claimant submitted proof of the following gross employment income to DHS: \$654.45 from 4/12/12 and \$700.92 from 4/26/13.
3. On 5/30/13, DHS determined Claimant to be eligible for FAP, effective 6/2013, based on a countable employment income of \$1457.
4. On 6/7/13, Claimant requested a hearing to dispute the amount of income budgeted by DHS in the FAP benefit determination, effective 6/2013.

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 requested a hearing to dispute a FAP benefit determination. FAP benefit budget factors include: income, standard deduction, mortgage expenses utility credit, medical expenses, child support expenses, day care expenses, group size and senior/disability/disabled veteran status. During the hearing, Claimant was offered an opportunity to discuss the entire FAP budget calculation. Claimant chose to limit his dispute to the amount of employment income calculated by DHS in the FAP determination. It was not disputed that DHS determined Claimant's monthly employment income to be \$1457.

It was not disputed that Claimant submitted verification of his pays from 4/12/13 and 4/26/13. Claimant testified that the submitted pays were over-representative of his income because they included overtime pays.

For non-child support income, DHS is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505 (10/2010), p. 4. DHS is to discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. *Id.*

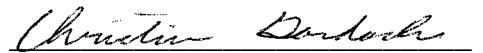
Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 at 7. Changes must be reported within 10 days of receiving the first payment reflecting the change. *Id.*

DHS processed Claimant's FAP eligibility based on Claimant's most recently reported information. Claimant conceded that he did not give DHS any indication that his submitted pays were unrepresentative. It is found that DHS properly based Claimant's FAP determination on Claimant's pays from 4/12/13 and 4/26/13.

DHS converts biweekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 (10/2010), p. 6. Multiplying Claimant's bi-weekly gross income by 2.15 results in a countable income of \$1457, the same amount budgeted by DHS. It is found that DHS properly determined Claimant's employment income in determining Claimant's FAP eligibility. As discussed during the hearing, Claimant may report and verify a change in income to DHS for consideration of an updated FAP determination to affect future months.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly budgeted Claimant's employment income in determining Claimant's FAP eligibility, effective 6/2013. The actions taken by DHS are AFFIRMED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/10/2013

Date Mailed: 7/10/2013

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,
 - 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:

