

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201355405
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: July 29, 2013
County: Wayne DHS (17)

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 29, 2013, from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED] appeared as Claimant's translator. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Manager.

ISSUE

The issue is whether DHS properly excluded Claimant's self-employment expenses in a FAP benefit determination.

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. On an unspecified date, DHS redetermined Claimant's FAP benefit eligibility.
3. On 6/13/13, Claimant submitted proof of his income.
4. On 6/14/13, DHS determined Claimant to be ineligible for FAP benefits, effective 7/2013, in part, based on a standard 25% self-employment expense credit.
5. On or near 6/20/13, Claimant submitted self-employment receipts to DHS.

6. DHS failed to factor Claimant's actual self-employment expenses in the FAP benefit determination for 7/2013.
7. On 6/20/13, Claimant requested a hearing to dispute the FAP benefit termination.

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).

The present case concerned a FAP benefit termination due to excess income. During the hearing, the only FAP benefit factor in dispute concerned Claimant's self-employment expenses.

For all programs, countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. BEM 502 (10/2012), p. 3. Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. *Id.*

It was not disputed that the FAP benefit determination in dispute gave Claimant a standard 25% self-employment expense credit. Claimant testified that he has self-employment expenses which amount to approximately 80% of his gross income. Claimant contended that DHS should have factored his actual self-employment expenses. DHS presented testimony that the standard 25% credit was factored because Claimant failed to submit self-employment receipts. Claimant responded that he submitted a slew of self-employment receipts over one month prior to the hearing. An exact date was not given but the date was likely on, or prior to, the date that Claimant's hearing request was submitted.

During the hearing, DHS discovered an envelope stuffed with Claimant's self-employment receipts. DHS could not verify on what date that the expenses were submitted. Thus, Claimant's testimony that he submitted the expenses prior to case closure was not rebutted.

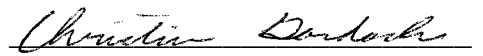
Based on the presented evidence, it is found that Claimant submitted self-employment expenses which should have been factored in the DHS determination to affect Claimant's 7/2013 FAP benefit eligibility. Accordingly, the DHS failure to factor actual self-expenses was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly failed to factor Claimant's self-employment expenses in the FAP determination, effective 7/2013. It is ordered that DHS:

- (1) determine Claimant's FAP benefit eligibility, effective 7/2013, subject to the findings that Claimant timely submitted actual self-employment expenses and that DHS should have factored Claimant's actual self-employment expenses; and
- (2) initiate a supplement of any FAP benefits improperly not issued.

The actions taken by DHS are REVERSED.


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

Date Signed: 8/8/2013

Date Mailed: 8/8/2013

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

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cc:

