

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████

Reg No.: 2013-57663
Issue No.: 3003
Case No.: ██████████
Hearing Date: August 12, 2013
Wayne County DHS (31)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Monday, August 12, 2013. Claimant appeared and testified. Participating on behalf of the Department of Human Services ("Department") was ██████████.

ISSUE

Whether the Department properly reduced Claimant's Food Assistance Program ("FAP") benefits.

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 recipient.
2. Claimant receives unemployment compensation in the amount of \$606.00 bi-weekly.
3. Claimant's daughter receives Supplemental Security Income ("SSI") in the amount of \$660.00/month.
4. Claimant pays \$304.00/month in child support.

5. Claimant's housing obligation is \$550.00 and he is responsible for his heat/utilities.
6. Claimant's group size is 2.
7. On or about June 26th, the Department notified Claimant that his FAP benefits would be reduced to \$17.00/month.
8. On July 3, 2013, the Department received Claimant's timely written request for hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

The Food Assistance Program ("FAP"), formerly known as the Food Stamp 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, Rules 400.3001 through R 400.3015.

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (November 2012), pp. 1, 2. All income is converted to a monthly amount. BEM 505 (October 2010), p. 1. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 1. Weekly benefit amounts are converted to a monthly amount by multiplying the weekly amount by 4.3. BEM 505, p. 6. Bi-weekly amounts are converted by multiplying the amount by 2.15. BEM 505, p. 6.

In this case, at redetermination, the Department discovered that Claimant was receiving unemployment compensation that was not previously reported or considered. The Department calculated Claimant's FAP allotment and included this income. In doing so, the Department determined Claimant's monthly gross income was \$1,979.00. This amount consisted of the \$606.00 in unemployment earnings that are received bi-weekly, and Claimant's daughter's monthly SSI income of \$660.00. The Department correctly reduced Claimant's gross income by the \$148.00 standard and the \$304.00 child support. Further, the Department included Claimant's shelter obligation of \$550.00 and included the Heat and Utility Standard of \$575.00. As a result, Claimant's monthly FAP allotment was reduced to \$17.00/month.

In converting Claimant's bi-weekly unemployment compensation to a standard monthly amount, the \$606.00 is multiplied by 2.15 for a total of \$1,302.90. Adding the daughter's SSI to this amount equals \$1,962.90, not \$1979.00 as the Department calculated. The \$16.10 difference was not explained. The evidence does not show any

other income. Although the difference is minor and may have little impact on Claimant's FAP allotment, the gross income figure used is not correct. Accordingly, the Department's FAP determination cannot be upheld.

Ultimately, the Department failed to establish it acted in accordance with policy when it determined Claimant's income. Accordingly, the Department's FAP determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds the Department failed to establish it acted in accordance with department policy when determined Claimant's monthly FAP benefit.

Accordingly, it is ORDERED:

1. The Department's FAP determination is REVERSED.
2. The Department shall initiate recalculation of Claimant's FAP benefits effective July 1, 2013 in accordance with this decision and Department policy.
3. The Department shall notify Claimant of the determination in accordance with Department policy.
4. The Department shall initiate supplementation of FAP benefits that the Claimant was entitled to receive, effective July 1, 2013 (if any), if otherwise eligible and qualified in accordance with Department policy.



Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 19, 2013

Date Mailed: August 19, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CMM/tm

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]