

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201358680
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: August 15, 2013
County: Wayne DHS (18)

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 August 15, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's 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 was a member of a two-person FAP benefit group.
3. Claimant received the following gross employment income: \$394.63 on May 31, 2013, \$451.00 on June 7, 2013, \$410.00 on June 14, 2013, \$656.00 on June 21, 2013 and \$410.00 on June 28, 2013.
4. Claimant paid \$6.55 in weekly child support.

5. On July 12, 2013, DHS determined Claimant's Food Assistance Program (FAP) eligibility (see Exhibits 1-3), effective August 2013, in part, based on his monthly employment income of \$2,071.00 per month and child support expenses of \$0.00.
6. On July 18, 2013, Claimant requested a hearing to dispute the FAP benefit determination.

CONCLUSIONS OF LAW

The Food Assistance Program (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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. 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 redetermination effective August 2013. 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. DHS presented a FAP budget for August 2013 (Exhibits 4-5). During the hearing, all budget factors were discussed with Claimant. Claimant only objected to the amounts used by DHS concerning employment income and rent.

It was not disputed that Claimant received weekly employment income. Claimant's weekly gross employment income pays were not disputed. DHS presented testimony that Claimant's paychecks from May 31, 2013 – June 28, 2013 were used to determine Claimant's income.

DHS converts weekly non-child support income into a 30 day period by multiplying the income by 4.3. BEM 505 (10/2010), p. 6. Multiplying Claimant's weekly income by 4.3 results in a monthly employment income of \$1,996.00. DHS determined Claimant's monthly gross employment income to be \$2,071.00. Accordingly, the DHS calculation of income is found to be improper.

Claimant also testified that he paid child support of \$6.55 per week to reimburse the State of Michigan for his child's birth. DHS conceded Claimant's weekly obligation. Legally obligated child support paid to an individual or agency outside the household, for a child who is now a household member, provided the payments are not returned to the household, is an allowed child support expense for purposes of FAP benefits. BEM 554 (10/2012), p. 5. DHS credited Claimant with \$0.00 child support expenses (see Exhibit 4). Accordingly, DHS erred in failing to factor Claimant's child support expenses.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP benefit eligibility; accordingly their actions taken in this regard are **REVERSED**. It is ordered that DHS:

- (1) redetermine Claimant's FAP eligibility, effective August 2013, subject to the findings that Claimant's monthly gross employment income was \$1,996.00, and Claimant had \$6.55 in weekly child support expenses; and
- (2) supplement Claimant for any benefits he was entitled to but that were not issued.



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

Date Signed: August 21, 2013

Date Mailed: August 21, 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

201358680/CG

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

CG/aca

cc:

