

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-62955
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: September 12, 2013
County: Oakland DHS (02)

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 September 12, 2013, from Detroit, Michigan. Participants included the above-named claimant. [REDACTED], Claimant's daughter, testified on behalf of 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 received federally-issued Supplemental Security Income (SSI) benefits of \$710/month.
3. Claimant received an additional \$42/3 months in state-issued SSI.
4. Claimant received child support income as follows: \$500 in [REDACTED] 2013, \$400 in [REDACTED]/2013 and \$0 in [REDACTED]/2013.

5. Claimant received subsidized housing, which charged a base rent of \$211 and mandatory monthly charges totaling \$40 for carport and washer/dryer use.
6. On [REDACTED]/13, DHS determined Claimant's FAP benefit eligibility, effective [REDACTED]/2013, in part, based on a monthly income of \$1024 and rent of \$211.
7. On [REDACTED]/13, Claimant requested a hearing to dispute the FAP benefit determination.
8. On [REDACTED]/13, DHS updated Claimant's rental obligation to \$251, effective [REDACTED]/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 on a document tied to a written notice from DHS dated [REDACTED] 13. The written notice dated [REDACTED]/13 informed Claimant of a FAP benefit determination effective [REDACTED]/2013. Claimant's request specifically disputed the amount of child support and rent factored by DHS in the benefit determination. Claimant testified that her disputes were limited to those two budget factors.

Claimant testified that she wanted to dispute her FAP benefit determinations prior to [REDACTED]/2013. Hearing requests are expected to specify which issues are in dispute so that DHS may adequately respond and prepare for the administrative hearing. Child support and rent were identified as disputed issues, but the request made no reference to a dispute for months prior to [REDACTED]/2013, the effective month of the Notice of Case Action. Based on the hearing request submitted by Claimant, it is found that Claimant is entitled to a dispute of FAP benefit eligibility beginning [REDACTED]/2013, but not for prior months. Claimant is free to request a hearing specifically disputing FAP benefits for prior months in the future.

Claimant's first dispute concerned income. It was not disputed that DHS budgeted \$1024 in unearned income (see Exhibit 21). It was not disputed that Claimant received \$710 in federally issued SSI benefits. During the hearing, it was thought that Claimant's only other income was child support.

In Michigan SSI benefits include a basic federal benefit and an additional amount paid with state funds. BEM 660 (11/2012), p. 1. The amount of the state benefit varies by living arrangement. *Id.*

Presumably, Claimant lives in an individual living arrangement. The state SSI payment for a person in an individual living arrangement is \$14/month. RFT 248 (1/2013), p. 1. Claimant's running total income is found to be \$724.

Claimant disputed the amount of child support income budgeted by DHS. Claimant alleged that she called her specialist in [REDACTED]/2013 to report a change in child support income and that DHS failed to make any changes. DHS is to use the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505 (10/2010), p. 3.

Accepting Claimant's testimony as accurate, the average child support income received from [REDACTED]/2013 [REDACTED]/2013 was \$300. Adding Claimant's SSI and child support income results in a countable income of \$1024, the same amount calculated by DHS.

Claimant also contended that DHS should have budgeted a \$251/month rental expense. It was established that the original FAP benefit determination for 9/2013 (see Exhibits 20-22) factored a \$211/month obligation. On [REDACTED]/13, DHS established that Claimant's rent obligation was updated to \$251, effective [REDACTED]/2013. Based on the updated rent obligation, Claimant has no dispute.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant no longer has a dispute concerning rent obligation and its effect on FAP eligibility for [REDACTED]/2013. Claimant's hearing request is PARTIALLY DISMISSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's child support income for FAP eligibility for [REDACTED]/2013. The actions taken by DHS are AFFIRMED.



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

Date Signed: 9/20/2013

Date Mailed: 9/20/2013

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

CG/hw

cc:

