

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014-1175  
Issue No.: 3002  
Case No.: [REDACTED]  
Hearing Date: October 30, 2013  
County: Oakland (03)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**HEARING DECISION**

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 30, 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 income in determining Claimant's Food Assistance Program (FAP) 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. On [REDACTED] 13, Claimant applied for FAP benefits.
2. In [REDACTED] /2013, Claimant received employment income of \$407.64 from home help care.
3. Claimant received weekly gross income from a second job: \$136 on [REDACTED] /13 and \$272 on [REDACTED] /13.
4. On [REDACTED] /13, DHS determined Claimant's FAP benefit eligibility, in part, based on income from three jobs amounting to a monthly income of \$2127.

5. The Notice of Case Action dated [REDACTED]/13 was to affect an unspecified benefit month.
6. On [REDACTED]/13, Claimant requested a hearing to dispute the FAP benefit determination.
7. Claimant testified that she only disputed the employment income factored in the FAP benefit determination.

### **CONCLUSIONS OF LAW**

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a FAP benefit determination. Claimant's request also noted a dispute concerning child support; Claimant testified that she had no child support dispute.

During the hearing, all FAP benefit factors were discussed with Claimant. Claimant only disputed the amount of employment income budgeted by DHS. It was not disputed that DHS calculated Claimant's employment income to be \$2127. DHS further alleged that the amount factored three different Claimant jobs.

It was not disputed that Claimant was supposed to receive \$407.64 in State of Michigan employment income for performing chore services for [REDACTED]/2013. It was not disputed that Claimant's check for \$407.64 was cashed. Claimant alleged that her pay check was fraudulently cashed and that she received no income. Claimant testified that she filed a police report and submitted documentation to DHS alleging fraud by a third party. As of the date of hearing, Claimant's claim of fraud was nothing more than a claim. Unless there is a court or administrative judgment supporting Claimant's allegation, DHS should budget Claimant's allegedly stolen income.

It was not disputed that Claimant had a second job. Claimant alleged that she lost the employment, but there was no dispute that Claimant failed to report the job stoppage as of [REDACTED]/13, the date of determination. Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (9/2012), p. 1. DHS cannot be faulted for not factoring an unreported change of income.

DHS presented proof of only two weeks of Claimant's employment income; Claimant presented no proof. 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. Converting Claimant's average weekly employment income to a monthly amount results in a monthly income of \$877.20 (dropping cents) for Claimant's second job.

Claimant's income from her alleged third job was also disputed. DHS presented testimony that Claimant had several jobs over the last several months and that Claimant failed to report that some or all of the jobs ended. Before the hearing, DHS failed to present evidence of the third job, or how much income was budgeted. The DHS testimony sounded persuasive so DHS was given additional time during the hearing to explain which job and how much income was factored. Despite the additional time, DHS could not justify why a third job was factored into Claimant's income calculation. It is found that DHS improperly counted Claimant's income from a third job.

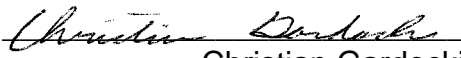
Based on the presented evidence, DHS established a total income of \$1284 (dropping cents, a substantially smaller income than budgeted by DHS. Accordingly, the FAP benefit determination was improper.

### **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. It is ordered that DHS perform the following actions to affect the benefit month associated with the Notice of Case Action dated [REDACTED]/13:

- (1) redetermine Claimant's FAP eligibility subject to the finding that Claimant's employment income was \$1284; and
- (2) supplement 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: 11/8/2013

Date Mailed: 11/8/2013

**NOTICE OF APPEAL:** 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.

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).

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:

