

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20147768
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: December 4, 2013
County: Wayne (55)

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, an in-person hearing was held on December 4, 2013, from Hamtramck, Michigan. Participants included the above-named Claimant. [REDACTED]

[REDACTED] appeared as Claimant's authorized hearing representative (AHR). [REDACTED], Claimant's son, testified and appeared as Claimant's translator. [REDACTED] Claimant's spouse also testified on behalf of Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility beginning 10/2013.

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 the following gross employment amounts: \$535.60 on [REDACTED]/13, \$535.60 on [REDACTED]/13, \$412.00 on [REDACTED]/13 and \$412.00 on [REDACTED]/13 (see Exhibits 3-6)

3. On [REDACTED]/13, DHS determined Claimant to be eligible for \$173 in FAP benefits, effective 10/2013 and mailed Claimant a Notice of Case Action (Exhibits 7-9) informing Claimant of the determination.
4. On 1 [REDACTED]/13, Claimant requested a hearing to dispute a 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 beginning in 10/2013. 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. Claimant only disputed the amount of income factored by DHS in the FAP benefit determination.

DHS presented a FAP benefit budget (Exhibits 1-2) verifying that DHS calculated Claimant's countable gross monthly income to be \$2371.00. DHS also presented pay stubs from Claimant ranging from [REDACTED]/2013 through [REDACTED]/2013. DHS could not definitively state which pays were factored to determine Claimant's income.

For non-child support income, DHS is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505 (10/2012), p. 4. It was not disputed that DHS determined Claimant's FAP eligibility for [REDACTED]/2013 on [REDACTED] 4/13 (the date that the Notice of Case Action was mailed to Claimant). It was not disputed that as of [REDACTED]/13, the four most recent pays that Claimant submitted to DHS were for the pay dates of [REDACTED]/13, [REDACTED]/13, [REDACTED]/13, and [REDACTED]/13. It is found that DHS should have prospected Claimant's income based on Claimant's pays from [REDACTED]/13, [REDACTED]/13, [REDACTED]/13, and [REDACTED]/13.

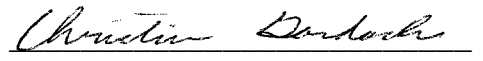
DHS converts weekly non-child support income into a 30-day period by multiplying the income by 4.3. BEM 505 (10/2010), p. 6. The average of Claimant's income is \$473.80. Claimant's correct countable income after multiplying Claimant's average pay by 4.3 is \$2037.34. This amount is more than \$300 less than the income determined by DHS. Accordingly, DHS improperly determined Claimant's income for purposes of Claimant's FAP benefit determination.

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 eligibility. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FAP benefit eligibility, effective [REDACTED]/2013, based on the following gross Claimant income: \$535.60 on [REDACTED]/13, \$535.60 on [REDACTED]/13, \$412.00 on [REDACTED]/13 and \$412 on [REDACTED]/13; and
- (2) supplement Claimant for 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: 12/10/2013

Date Mailed: 12/10/2013

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

2014-7768/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/hw

cc:

