

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

IN THE MATTER OF:

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

Reg. No.: 2014-9040
Issue No.: 3008
Case No.: ██████████
Hearing Date: December 2, 2013
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 December 2, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payment Worker.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for November 1, 2013, ongoing?

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 is an ongoing recipient of FAP benefits.
2. On October 22, 2013, the Department sent Claimant a Notice of Case Action notifying him that, effective November 1, 2013, his monthly FAP benefits were increasing ██████████ (Exhibit 1)
3. On October 25, 2013, Claimant requested a hearing disputing the Department's calculation of his FAP benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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.

Additionally, Claimant requested a hearing disputing the calculation of his FAP benefits.

The Department presented a FAP net income budget showing the calculation of Claimant's monthly FAP benefits. Claimant confirmed that there were three members in his FAP group. Based on a household size of three, the Department properly applied a [REDACTED] standard deduction to the group's income. RFT 255 (October 2013), p. 1. Because Claimant had not verified any monthly housing expenses, the Department properly did not include any such expenses in the budget. BEM 554 (July 2013), p. 14.

At issue in the hearing was the calculation of Claimant's gross monthly earned income. The Department testified that it recalculated Claimant's FAP benefits based on paystubs Claimant provided from his two employers. For Claimant's employment with Oceanus, the Department considered the following paystubs: (i) [REDACTED] paid on September 6, 2013; (ii) [REDACTED] paid on September 13, 2013; (iii) [REDACTED] paid on September 20, 2013; and (iv) [REDACTED] on September 27, 2013. Claimant's gross monthly income from Oceanus, based on the average weekly income multiplied by 4.3 in accordance with Department policy, is [REDACTED]. See BEM 505 (July 2013), p. 8. For Claimant's employment with TGIF, the Department considered the following pay from the Work Number: (i) \$ [REDACTED] paid on September 2, 2013; and (ii) \$291.96 paid on September 16, 2013. Claimant's gross monthly income from TGIF, based on the average biweekly income multiplied by 2.15 in accordance with Department policy, is [REDACTED]. See BEM 505 (July 2013), p. 8. However, the Department's evidence showed that it considered [REDACTED] for gross monthly earned income for TGIF. Because Claimant's earned income from TGIF is less the amount used by the Department, the Department did not act in accordance with Department policy when it calculated Claimant's gross monthly earned income.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it calculated Claimant's monthly FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Claimant's FAP budget for November 1, 2013, ongoing; and
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from November 1, 2013, ongoing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 9, 2013

Date Mailed: December 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:

2014-9040/ZB

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

ZB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]