

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

IN THE MATTER OF:



Reg. No.: 201313899
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 10, 2013
County: Wayne DHS (15)

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 January 10, 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 issued all required Food Assistance Program (FAP) benefits to Claimant following an administrative decision.

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 10/12/12, an administrative decision ordered DHS to redetermine Claimant's FAP benefit eligibility effective 8/1/12.
2. Claimant was eligible to receive \$311 in FAP benefits for 8/2012 and \$248 in FAP benefits for 9/2012.
3. On an unspecified date, DHS issued \$311 in FAP benefits to Claimant for 8/2012 and \$136 in FAP benefits to Claimant for 9/2012.
4. On 11/21/12, Claimant requested a hearing to dispute the failure by DHS to issue \$248 in FAP benefits.

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).

It was not disputed that DHS was ordered via administrative decision to supplement Claimant for FAP benefits beginning 8/2012. Claimant requested a second hearing contending that DHS failed to comply with the first administrative order.

It was not disputed that Claimant was entitled to FAP benefits for 8/2012 in the amount of \$311. It was not disputed that DHS issued \$311 to Claimant for 8/2012. Claimant is owed nothing more for 8/2012.

Claimant also disputed the amount allegedly owed to her for 9/2012. It was not disputed that Claimant was entitled to \$248 in FAP benefits for 9/2012. It was also not disputed that Claimant received \$136 in FAP benefits after she reapplied for FAP benefits in 9/2012 after DHS terminated her eligibility effective 8/2012. DHS conceded owing Claimant an additional \$112 in FAP benefits.

Claimant contended that she was entitled to receive a supplement of \$248 for 9/2012. The original administrative decision ordered DHS to "Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from August 1, 2012, ongoing". Claimant already received \$136 of her 9/2012 FAP benefit eligibility. Claimant is not entitled to receive FAP benefits twice. It is found that Claimant is owed \$112 in FAP benefits for 9/2012.

The local office has 10 days from the date the decision was mailed from the Michigan Administrative Hearings System to implement a decision and order. BAM 600 (10/2012), p. 7. The administrative decision ordering DHS to redetermine Claimant's FAP benefit eligibility was mailed 10/12/12. Nearly three months later, DHS has yet to fully comply with the order. DHS will be ordered a second time to supplement Claimant \$112 in FAP benefits for 9/2012.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS failed to comply with a previous administrative order in issuing FAP benefits to Claimant. It is ordered that DHS:

- (1) issue \$112 in FAP benefits to Claimant for her 9/2012 FAP benefit eligibility; and
- (2) issue the supplement within 10 days of the mailing of this administrative order.

The actions taken by DHS are REVERSED.



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

Date Signed: January 15, 2013

Date Mailed: January 15, 2013

NOTICE: 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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

