

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-33088
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: April 8, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 conducted on Monday, April 8, 2013 from Detroit, Michigan. Claimant and [REDACTED] appeared and testified. Participating on behalf of the Department of Human Services (Department) was [REDACTED] Eligibility Specialist and [REDACTED] Family Independence Manager.

ISSUE

Due to excess income, did the Department properly close Claimant's Food Assistance Program (FAP) case?

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 recipient of FAP benefits.
2. On February 19, 2013, the Department sent Claimant a Notice of Case Action informing him that effective April 1, 2013, his FAP case would close due to excess income.
3. On February 27, 2013, Claimant filed a hearing request disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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. Rule 400.3001 through Rule 400.3015.

In this case, Claimant submitted an application for FAP benefits on November 2, 2012, which was subsequently approved. On or about January 18, 2013, Claimant submitted verification of his son's social security number and the Department recalculated Claimant's FAP budget to determine continued benefit eligibility. Although a Notice of Case Action was not provided at the hearing, the Department testified that on February 19, 2013, the Department sent Claimant a Notice of Case Action informing him that his FAP case would close effective April 1, 2013 due to excess income. The issue presented at the hearing was the calculation of Claimant's earned income.

Additionally, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2013), pp. 1–3. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2010), p. 1. In calculating a client's earned income, the Department must determine a best estimate of income expected to be received by the client during a specific month. BEM 505 (October 2010), p. 2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 4. If income received in the past 30 days is not a good indicator of future income, and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month, the Department must use income from the past 60 or 90 days for fluctuating or irregular income. BEM 505, p. 5. Whenever possible, the Department is required to seek input from the client to establish an estimate. BEM 505, p. 2. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 6. Income received weekly is converted to a standard amount by multiplying the average of the weekly paychecks by the 4.3 multiplier. BEM 505, pp. 6-7.

At the hearing, the budget from the FAP EDG Net Income Results was reviewed. (Exhibit 1). The Department concluded that Claimant's earned income was \$3,443.00. The Department testified that in calculating Claimant's monthly earned income, it considered the following employment income: (1) \$652.00 paid on November 15, 2012; (2) \$1,288.00 paid on November 22, 2012; (3) \$736.00 paid on November 29, 2012; (4)

\$664.00 paid on December 6, 2012; and (5) \$664.00 paid on December 13, 2012. At the hearing, Claimant testified that the \$1,288.00 he was paid on November 22, 2012 was not the amount of income that he receives on a regular basis. Comparing that amount to the other paychecks relied on by the Department verifies Claimant's testimony. Thus, the Department did not act in accordance with Department policy when it failed to discard the November 22, 2012, pay in calculating Claimant's earned income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it closed Claimant's FAP case due to excess income. Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's FAP case effective April 1, 2013 in accordance with Department policy;
2. Begin recalculating the FAP budget for April 1, 2013 ongoing in accordance with Department policy and consistent with this Hearing Decision;
3. Begin issuing supplements to Claimant for any FAP benefits that he was entitled to receive but did not from April 1, 2013, ongoing;
4. Notify Claimant of its decision in writing in accordance with Department policy.



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

Date Signed: April 17, 2013

Date Mailed: April 17, 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 affect the substantial rights of the claimant:
 - 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

ZB/cl

cc:

