

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

**IN THE MATTER OF:**



Reg. No.: 2013-33877  
Issue No.: 3015  
Case No.: [REDACTED]  
Hearing Date: April 3, 2013  
County: Oakland (02)

**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 Wednesday, April 3, 2013 from Detroit, Michigan. Claimant and her mother, [REDACTED] appeared and testified. Participating on behalf of the Department of Human Services (Department) was [REDACTED] Assistance Payment Supervisor.

**ISSUE**

Due to excess income, did the Department properly deny Claimant's application for Food Assistance Program (FAP) benefits?

**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 February 13, 2013, Claimant submitted an application for FAP benefits.
2. On February 21, 2013, the Department sent Claimant a Notice of Case Action denying her application for FAP benefits due to excess income. (Exhibit 1)
3. On March 4, 2013, Claimant filed a hearing request disputing the Department's actions.

## CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services 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 for herself, her two children and her mother on February 13, 2013. Claimant's FAP budget was calculated and the Department determined that Claimant was not eligible to receive FAP benefits because her net income was \$2,525.00, which exceeded the limit. For FAP purposes, the applicable FAP net income limit for Claimant's group size of four is \$1,921.00. RFT 250 (October 2012), p. 1. On February 21, 2013, the Department sent Claimant a Notice of Case Action informing her that her application for FAP benefits was denied due to excess income. (Exhibit 1). The issues presented at the hearing were the calculation of Claimant's earned and unearned income.

### **Earned Income**

In calculating Claimant's earned income, the Department testified that it relied on Claimant's paychecks from Target and Claimant's mother's reported income from self-employment.

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 thirty 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. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 6. Income received biweekly is converted to a standard amount by multiplying the average of two biweekly paychecks by the 2.15 multiplier. BEM 505, pp. 6-7.

At the hearing, the budget from the FAP EDG Net Income Results was reviewed. (Exhibit 2). The Department concluded that Claimant's earned income from Target was \$735.00. Claimant's income was converted to a standard monthly amount by multiplying

the average of her two paychecks (\$303.56 from January 18, 2013 and \$380.70 from February 1, 2013) by the 2.15 multiplier. (Exhibit 3). An issue was raised during the hearing as to whether the paychecks from Target should be counted towards earned income or unearned income due to Claimant's testimony that she had not been working since October 23, 2012 because of a short term disability and that Target was paying her during that time off. A further review of policy and the paychecks presented establishes that the income Claimant received from Target should be treated as regular wages paid during illness and counted as earned income. BEM 500, p.9. and BEM 501 (July 2012), p. 5. Therefore, the Department properly calculated Claimant's earned income from Target and properly applied the 20% earned income deduction. BEM 550 (February 2012), p. 1.

Additionally, the Department considers income earned from self-employment in the calculation of earned income. BEM 500, p. 1-3. At the hearing, the Department acknowledged that it acted in error when calculating Claimant's mother's earned income from self-employment. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. Allowable expenses are the higher of 25% of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. BEM 502 (October 2012), p. 3. On Claimant's application for FAP benefits, she indicated that the gross monthly income from self-employment was \$3,000.00 to \$4,000.00. (Exhibit 6). In determining Claimant's self-employment income, the Department testified that it budgeted \$3,000.00 for November, \$3,000.00 for December and \$3,000.00 for January; however, rather than divide this amount by three months to get the average, the Department incorrectly divided by four months to receive an average monthly self-employment income of \$2,250.00. After applying the 25% deduction for expenses, the Department determined Claimant's unearned income to be \$1,687.00. Therefore, the Department did not properly calculate Claimant's earned income from self-employment.

### **Unearned Income**

The Department concluded that Claimant had unearned income of \$889.00 which came from two sources: \$667.00 in RSDI benefits for Claimant's mother, and \$222.64 in child support for Claimant's children.

Money earned from Retirement, Survivors, Disability Insurance (RSDI) is included in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (November 2012). The SOLQ presented verified that \$667.00 is received monthly in RSDI benefits. (Exhibit 5, p.1).

In this case, Claimant's mother was the legal guardian of Claimant's two children and Claimant was ordered to pay child support to her mother for the care of the children. At the time of application, Claimant, her mother and Claimant's two children all lived together and were members of the same group for FAP purposes. See BEM 212 (November 2012). Child support is money paid by an **absent parent(s)** for the living expenses of children and is considered unearned income. The total amount of court-ordered direct support (which is support an individual receives directly from the absent

parent or the Michigan State Disbursement Unit (MiSDU)) is counted as unearned income and is considered in the calculation of a client's gross unearned income. BEM 503 (November 2012), pp 5, 7; BEM 556 (October 2011), p 2. The Department testified that it calculated Claimant's unearned income from child support to be \$222.64. Contrary to the figures presented by the Department, Claimant stated and her mother confirmed that Claimant pays her mother \$65.00 bi-weekly in child support for both of her children. The pay checks submitted by Claimant also verified that \$65.00 is being garnished from her bi-weekly pay for this purpose. (Exhibit 4, pp. 2, 4). Additionally, because Claimant is the payer of child support and Claimant's mother (a household member) is the payee; the child support deduction is not applicable in this case. BEM 554 (October 2012), pp.4-5. Claimant is not granted the benefit of a child support deduction because the support went to a fellow group member. Essentially, the Department is including income from child support twice for this group: as part of unearned income for Claimant's mother and as part of Claimant's earned income because she is not eligible for the child support deduction. This was not the intent behind the policy for including child support as unearned income for FAP budgeting. Because Claimant and her mother live together and are considered part of the same group for FAP purposes, the Department should not have included child support in the calculation of Claimant's unearned income as she is not an absent parent. Claimant is not to be treated as an absent parent for FAP budgeting purposes because she lives with the children. The money she pays her mother in support for the children is being put right back into the household. Therefore, the Department improperly included child support as part of Claimant's gross unearned income.

Because of errors in the Department's calculation of Claimant's earned and unearned income discussed above, the Department did not act in accordance with Department policy when it denied Claimant's application for FAP benefits due to excess 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 denied Claimant's application for FAP benefits 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. Reregister Claimant's February 13, 2013 application for FAP benefits;
2. Begin reprocessing the FAP application and recalculating the FAP budget for February 13, 2013 ongoing in accordance with Department policy and consistent with this Hearing Decision;
3. Begin the issuance of supplements for any FAP benefits that Claimant was entitled to receive but did not from February 13, 2013, ongoing; and

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 11, 2013

Date Mailed: April 11, 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:

