

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201334453  
Issue No.: 3003  
Case No.: [REDACTED]  
Hearing Date: April 8, 2013  
County: Wayne (35)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**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 April 8, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist, and [REDACTED], Eligibility Specialist.

**ISSUE**

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for March 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 was an ongoing recipient of FAP benefits.
2. In connection with a January 2013 increase in Claimant's household's benefits from Supplemental Security Insurance (SSI) benefits, the Department recalculated Claimant's FAP budget.
3. Claimant's FAP budget included self-employment income Claimant had previously reported to the Department.

4. On January 29, 2013, the Department sent Claimant a Notice of Case Action advising him that his monthly FAP benefits would be reduced to \$79 effective March 1, 2013.
5. On March 7, 2013, Claimant filed a request for 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), and Department of Human Services 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, R 400.3001 through R 400.3015.

In this case, the January 29, 2013 Notice of Case Action sent to Claimant notified him that his monthly FAP benefits would be reduced to \$79 beginning March 1, 2013.

At the hearing, the Department testified that Claimant's decreased FAP benefits were due to an increase in his SSI benefits. The Department produced a FAP budget showing the calculation of Claimant's monthly FAP benefits for March 1, 2013, ongoing. Claimant verified that he received monthly SSI benefits of \$710 beginning March 1, 2013, and monthly State SSI Payment (SSP) benefits of \$14 (based on quarterly payments of \$42). He also verified that he was the sole member of his FAP group. A review of the FAP budget and the Notice of Case Action shows that the Department properly applied the \$148 standard deduction applicable to his FAP group size of one and the \$575 standard heat and utility deduction available to all FAP recipients. RFT 255 (October 1, 2012), p 1; BEM 554 (October 1, 2012), pp 11-12. Claimant also verified that, at the time the FAP budget was calculated, he was responsible for \$255 towards his monthly rent, the remainder being government-subsidized.

The FAP budget also included self-employment income of \$308, which the Department credibly testified was included in Claimant's previously calculated FAP budget and was included as ongoing income in the updated March 2013 ongoing FAP budget. The Department established that, in connection with his November 2012 Semi-Annual Contact Report, Claimant presented two paystubs showing income of \$353.25 on July 12, 2012, and \$167.97 on July 30, 2012. The parties agreed that this was gross income Claimant earned from his self-employment activities.

To determine Claimant's FAP group's countable income from self-employment, the Department must deduct the allowable expenses of producing the income from the total

proceeds. BEM 502 (October 1, 2012), p 3. Allowable expenses are the higher of (i) 25 percent of the total proceeds, or (ii) actual expenses, if the client chooses to claim and verify the expenses, up to the amount of the total proceeds. BEM 502, p 3. In this case, Claimant had total proceeds of \$521.22 based on the July paystubs. The paystubs also showed that a portion of these proceeds were reimbursements to Claimant, which Claimant credibly testified were his out-of-pocket expenses. Therefore, the reimbursements were verified expenses, and Claimant is eligible for allowable expenses in an amount equal to the higher of (i) 25% of his total proceeds or (ii) the amount of the reimbursements. In this case, the Department was unable to explain how it concluded that Claimant's countable income from self-employment totaled \$308. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's earned income from self-employment.

At the hearing, Claimant contended that his self-employment income fluctuated from month to month and presented evidence concerning these fluctuations with his March 6, 2013, hearing request. Because the Department did not have this information prior to the March 1, 2013, effective date of the reduction in his FAP benefits, the Department could not consider this information in the calculation of Claimant's March 2013 FAP budget. However, this reported change may affect future FAP benefits. See BEM 505 (October 1, 2010), pp 8-10. Claimant also questioned whether his mileage expenses could be included in the calculation of his self-employment expenses. Allowable expenses for self-employment include transportation costs while on the job (for example, fuel). BEM 502, p 3. Claimant admitted he had not provided verification of mileage expenses to the Department. He was advised to submit such expenses to the Department with respect to future FAP benefits and to request a hearing if he was not satisfied with respect to the Department's actions concerning his mileage expenses.

### **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 act properly when .

did not act properly when it failed to satisfy its burden of showing that it calculated Claimant's self-employment income in accordance with Department policy.

Accordingly, the Department's decision is  AFFIRMED  REVERSED for the reasons stated on the record and above.

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

1. Begin recalculating Claimant's FAP budget for March 1, 2013, ongoing, in accordance with Department policy and consistent with this Hearing Decision;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from March 1, 2013, ongoing;

3. Notify Claimant in writing of its decision in accordance with Department policy.



**Alice C. Elkin**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 4/12/2013

Date Mailed: 4/12/2013

**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

ACE/hw

cc:

