

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201335612  
Issue No.: 3002  
Case No.: [REDACTED]  
Hearing Date: April 18, 2013  
County: Monroe

**ADMINISTRATIVE LAW JUDGE:** Susanne E. Harris

**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 18, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included Eligibility Specialist, [REDACTED] and Assistance Payments Supervisor, [REDACTED].

**ISSUE**

Did the Department properly take action to close the Claimant's Food Assistance Program (FAP) case and then subsequently reduce the Claimant's monthly FAP allotment?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing recipient of monthly FAP benefits in the amount of \$ [REDACTED]
2. In February of 2013, the Department processed the Claimant's redetermination. The Claimant's group's earned income was based on verification of [REDACTED] of her [REDACTED] and [REDACTED] of her earned income. Her [REDACTED] four counted [REDACTED] were in the amount of \$ [REDACTED] \$ [REDACTED] \$ [REDACTED] and \$ [REDACTED]. When totaled and then divided by four and then multiplied by 4.3, the Administrative Law Judge arrived at a figure of \$ [REDACTED]. The Claimant's counted earned income was based on paystubs indicating the following gross pay: \$ [REDACTED] \$ [REDACTED] [REDACTED] and \$ [REDACTED]. When totaled and then divided by

four and then multiplied by 4.3, the Administrative Law Judge arrived at a figure of \$ [REDACTED]. The result is a total gross income of \$ [REDACTED].

3. On March 8, 2013, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that her FAP case was closed for the month of March of 2013, and that she was approved for FAP in the monthly amount of \$ [REDACTED] for April of 2013.
4. The Claimant's entire hearing request was not included in the hearing packet. The Department testified that the Claimant's hearing request protesting its FAP determination was received on March 12, 2013.

### **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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 ACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

The Department's FAP budget in evidence indicates that the Claimant's FAP group has a total gross income of \$ [REDACTED] as opposed to the \$ [REDACTED] figure the Administrative Law Judge calculated on the record. The Department's workers at the hearing could not explain why it is that they arrived at a higher figure and they did testify that the Claimant's [REDACTED] [REDACTED] was determined to be \$ [REDACTED] and the Claimant's income was determined to be \$ [REDACTED]. Regarding the Claimant's income, the Department's worker speculated on the record that perhaps it was higher because perhaps the first check was not budgeted as being an irregular check.

Bridges Eligibility Manual (BEM) 505 (2010) p. 4, provides that the Department's workers should use the past 30 days of income to prospect income for the future unless changes are expected. It also provides that the worker can discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. It instructs the worker to document which pay is being discarded and why. BEM 505 pp. 4-6 sets forth the Department's formula for calculating income. Per BEM 505, both the Claimant's and her [REDACTED] income were calculated by totaling the 4 weekly [REDACTED] [REDACTED] then dividing that figure by 4 for a weekly average, and then multiplying that figure by 4.3. If the Claimant's first pay check of \$ [REDACTED] was discarded as the Department's workers speculated at the hearing, it was not documented as the policy requires. Furthermore, there is no explanation for why it is that the Department arrived at a higher figure for the Claimant's [REDACTED] income. As the figures contained in the Department's budget do not reflect the figures that the Administrative Law Judge arrived at when applying the formula set forth in BEM 505, the Administrative Law Judge concludes that the Department was not acting in accordance with departmental policy when taking action to close the Claimant's FAP case and subsequently reduce the Claimant's FAP allotment.

### **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 taking action to close the Claimant's FAP case and subsequently reduce the Claimant's FAP allotment.

Accordingly, the Department's  AMP  FIP  FAP  MA  SDA  CDC decision is  AFFIRMED  REVERSED for the reasons stated on the record.

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

1. Initiate action to redetermine the Claimant's eligibility for FAP back to the day of the closure of her case, and
2. During the process produce a budget that comports with BEM 505 and which can be explained to the Claimant, and
3. Initiate action to issue the Claimant any supplements that she may thereafter be due.

/s/  
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Susanne E. Harris  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 4/22/13

Date Mailed: 4/23/13

**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.

201335612/SEH

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

SEH/tb

cc:

