

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201336734
Issue No: 3015
Case No: [REDACTED]
Hearing Date: April 24, 2013
County: Bay County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on March 20, 2013. After due notice, a telephone hearing was held on April 24, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], an eligibility specialist with the department's Bay County office.

ISSUE

Whether the department properly determined Claimant's Food Assistance Program (FAP) benefit eligibility for the benefit period effective February 1, 2013?

FINDINGS OF FACT

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

1. Claimant was a recipient of FAP benefits at times relevant to this hearing in the amount of \$65.00.
2. In January 2013, Claimant reported to the department that, effective January 22, 2013, she would begin enrollment in a Senior Community Service Employment Program (SCSEP) and that, as a part-time SCSEP trainee of the Region VII Area Agency on Aging, her employment wages would be budgeted under Title V of the Older American Act, which specifies that the wages individuals receive as SCSEP participants are not to be included in income eligibility determinations for federally subsidized housing and/or food stamps. (Claimant Exhibit 1)

3. On March 13, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that effective February 1, 2013, her FAP benefits would be decreased to \$16.00 per month for the reason that her earned income amount had increased. (Department Exhibit 1)
4. On March 20, 2013, Claimant submitted a timely hearing request protesting the reduction in her FAP benefits. In doing so, Claimant requested that her FAP benefits be continued at the former level until her hearing is decided. (Request for a Hearing)
5. Despite Claimant's timely request, the department did not continue Claimant's FAP benefits at her former level during the pendency of her hearing request.

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

The Food Assistance Program (FAP) was established pursuant to 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 administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015. Department policies for the program are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

Department policy further provides, however, that Bridges excludes income earned under the senior community service employment program established by Title V of Public Law 100-175 (Older Americans Act). BEM 501. Bridges excludes such income both as income and as an asset.

In this case, the department determined Claimant's eligibility for FAP benefits in the amount of \$16.00 for the benefit period beginning February 1, 2013 based on the department's determination that Claimant's earnings from her employment as a part-time SCSEP trainee of the Region VII Area Agency on Aging do not constitute excluded earned income under BEM 501 and therefore should be included in Claimant's FAP budget.

At the April 24, 2013 hearing, the department's representative reiterated that it was her interpretation that Claimant's employment was not considered excluded income under BEM 501 despite the fact that Claimant was expressly advised by the Region VII Area Agency on Aging that her training assignment as an SCSEP trainee was budgeted under Title V of the Older American Act. The department's representative also acknowledged that Claimant filed a timely hearing request and requested that her benefits be restored pending the hearing process and that it was department error not to have restored her benefits accordingly.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record, as well as department policy BEM 501, and finds that BEM 501 explicitly excludes Claimant's earnings as an SCSEP trainee as income from all types of assistance, including the FAP program. Accordingly, this Administrative Law Judge finds that, based on the competent, material, and substantial evidence presented during the April 24, 2013 hearing, the department did not act in accordance with policy in determining Claimant's FAP benefit eligibility for the benefit period effective February 1, 2013 because the department failed to exclude from Claimant's FAP budget her earnings as an SCSEP trainee. This Administrative Law Judge further finds that the department did not act in accordance with policy in failing to maintain Claimant's FAP benefits at the former level until the conclusion of the hearing process.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not act in accordance with policy in determining Claimant's FAP benefit eligibility for the benefit period effective February 1, 2013 because the department failed to exclude from Claimant's FAP budget her earnings as an SCSEP trainee. Accordingly, the department's actions are **REVERSED** and the department shall immediately redetermine Claimant's FAP benefit eligibility for the benefit period effective February 1, 2013 and issue any supplemental checks if she is otherwise entitled to them.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, further decides that the department did not act in accordance with policy in failing to maintain Claimant's FAP benefits at the former level until the conclusion of the hearing process. The department's actions in this regard are therefore **REVERSED** and the department shall immediately issue Claimant supplement checks for the months Claimant did not receive FAP benefits during the pendency of the hearing process.

It is SO ORDERED.

/s/ _____
Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 25, 2013

Date Mailed: April 26, 2013

NOTICE: Michigan Administrative Hearings 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 Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal this Order to Circuit Court within 30 days of the receipt of the 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of 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 System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/aca

cc:

