

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-38001
Issue Nos.: 3002;3003
Case No.: [REDACTED]
Hearing Date: April 29, 2013
County: Wayne (76)

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 29, 2013 from Detroit, Michigan. Claimant and his wife, [REDACTED], appeared and testified. Participating on behalf of the Department of Human Services (Department) was [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly reduce Claimant's 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. Claimant was an ongoing recipient of FAP benefits.
2. On January 16, 2013, Claimant's daughter, a member of his FAP group, reported to the Department that she had gained employment.
3. Claimant's daughter completed a New Hire Client Notice and provided the Department with pay stubs verifying her employment. (Exhibit 7).
4. Claimant's FAP budget was recalculated.

5. On March 20, 2013, the Department sent Claimant a Notice of Case Action informing him that his FAP benefits would be reduced effective May 1, 2013. (Exhibit 6)
6. On April 1, 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.

Additionally, on January 16, 2013, Claimant's daughter, a member of his FAP group, reported to the Department that she had gained employment. She completed a New Hire Client Notice and provided the Department with pay stubs verifying her employment and pay. (Exhibit 7). Claimant's FAP budget was recalculated to reflect this additional income, and on March 20, 2013 the Department sent Claimant a Notice of Case Action informing him that his FAP benefits would be reduced effective May 1, 2013. (Exhibit 6). Claimant requested a hearing to dispute the Department's reduction of his FAP benefits due to an increase in net income.

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. 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 5). The Department concluded that Claimant had earned income of \$478.00. The Department testified that in calculating Claimant's monthly earned income, it considered the following employment income: (1) check dated December 31, 2012 in amount of \$186.00 for 23.25 hours worked; (2) check dated January 14, 2013 in amount of \$292.00 for 36.50 hours worked; and; (3) check dated January 28, 2013 in amount of \$190.00 for 23.75 hours worked. According to the New Hire Client Notice, Claimant's daughter worked 8 to 11 hours per week and gets paid every two weeks. (Exhibit 7). The \$292.00 received by Claimant for the check dated January 14, 2013 should not be considered her regular pay because it is based on 36.60 hours for two weeks, which is more than her average weekly hours according to the New Hire Client Notice. Thus, the Department did not act in accordance with Department policy when it failed to discard the January 14, 2013 pay in calculating Claimant's earned income. BEM 505, p. 4.

Money earned from Retirement, Survivors, Disability Insurance (RSDI) is included in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (May 2013), p.21. Other retirement income includes annuities, private pensions, military pensions, and state and local government pensions and the gross amount received is also included in the calculation of unearned income for FAP budgeting. BEM 503, p. 20.

The Department concluded that Claimant had unearned income of \$3,112.00 which came from RSDI benefits for Claimant, his wife and children, as well as Claimant's retirement pension. At the hearing however, the Department failed to provide an adequate breakdown of exactly which figures were relied on in making the determination that Claimant's unearned income was \$3,112.00. The figures that were provided by the Department at the hearing do not total \$3,112.00. Further, no SOLQs were presented detailing the amounts of RSDI benefits received by Claimant's group nor was there any proof of the amount of Claimant's pension. Therefore, the Department did not provide sufficient evidence to allow for a conclusion as to whether or not the Department properly calculated Claimant's unearned income.

Although the Department properly applied the \$213.00 standard deduction applicable to Claimant's verified group size of seven, the Department was unable to explain how it determined Claimant's medical deduction of \$185.00 or what figures were relied on. RFT 255 (October 2012), p 1.

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 reduced Claimant's FAP benefits due to an increase in net income. Accordingly, the Department's decision is REVERSED.

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 reduced Claimant's FAP benefits due to an increase in net 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. Begin recalculating Claimant's FAP budget for May 1, 2013 ongoing in accordance with Department policy and consistent with this Hearing Decision;
2. Begin issuing supplements to Claimant for any FAP benefits that he was entitled to receive but did not from May 1, 2013, ongoing; and
3. 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: May 8, 2013

Date Mailed: May 8, 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.

2013-38001/ZB

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ZB/cl

cc:

