

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201343151
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: May 22, 2013
County: Wayne County (#19)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 May 22, 2013 from Detroit, Michigan, Claimant appeared and testified. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Family Independence Manager) and [REDACTED] (Assistant Payment Worker).

ISSUE

Whether the Department properly reduced the 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. The Claimant is an ongoing FAP recipient with a group size of 5.
2. On February 1, 2013, the Department sent notice of six month contact review, requesting verifications due by March 1, 2013. (Exhibit 1)
3. The Claimant submitted four paystubs as proof of income that was used to determine eligibility. (Exhibit 2)
4. Based on the paystub amounts the Department determined the Claimant's monthly income is \$1,639.94. (Exhibit 3)

5. The Claimant's housing expense is \$375, plus the heat/utility standard of \$575 resulting in an excess shelter deduction of \$388. (Exhibit 4)
6. As a result of the different income amount the Department changed the Claimant's FAP allotment from \$695 to \$571.00. (Exhibit 4)
7. On April 11, 2013 the Department sent Notice of Case Action that Claimant's FAP benefits would be \$571 effective April 1, 2013 through September 30, 2013.
8. On April 24, 2013 the Department received the Claimant's written hearing request disputing the FAP allotment amount.

CONCLUSIONS OF LAW

The Department of Human Services (DHS) policies are contained in the 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, R 400.3001 through R 400.3015.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. BEM 500 (January 2013), p. 3. All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. A standard monthly amount must be determined for each income source used in the budget. BEM 505 (October 2010), p. 6. The Department is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505, p. 4. For FAP, when processing a semi-annual contact the 30-day period can begin up to 30 days before the day the Semi-Annual Contact Report, is received by the client or the date a budget is completed. Any 30-day period that best reflects the client's prospective income within these guidelines can be used. The Department will discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 4.

In this case, Claimant acknowledged the accuracy of the paystub amounts used and the housing expenses budgeted by the Department. Claimant asserts that her work hours decreased around the same time the budget was completed and new paystubs should be used to determine the benefit amount. Policy provides that income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was

returned by the due date. The Department will not process a change for a month earlier than the month the change occurred. BEM 505, p. 9. A review of the FAP budget shows the Department established it acted in accordance with policy when it reduced the Claimant's FAP allotment from \$695 to \$571, based on the income information before the Department at the time of determination. Any reported changes to income will be processed by the Department in accordance with policy to affect future benefits.

Accordingly, the Department action is upheld.

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 acted in accordance with policy when it determined the Claimant's FAP allotment amount of \$571 effective April 1, 2013.

Accordingly, the Department's FAP determination is hereby, **AFFIRMED**.



Michelle Howie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/31/2013

Date Mailed: 5/31/2013

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:

201343151/MH

- 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:

