

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

IN THE MATTER OF:

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████████████████████
████████████████████

Reg. No.: 2013-43388
Issue No.: 3002
Case No.: ██████████
Hearing Date: June 17, 2013
County: Wayne (55)

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 June 17, 2013 from Detroit, Michigan. Claimant appeared and testified. ██████████ of ██████████ served as Interpreter. Participating on behalf of the Department of Human Services (Department) was ██████████ Eligibility Specialist- Medical Contact Worker.

ISSUE

Did the Department properly calculate 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 April 12, 2013, the Department sent Claimant a Notice of Case Action informing him that his FAP benefits would be reduced effective May 1, 2013. (Exhibit 4)
3. On April 22, 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 April 12, 2103, the Department sent Claimant a Notice of Case Action informing him that his FAP benefits would be reduced to \$17.00 effective May 1, 2013. (Exhibit 4). Claimant requested a hearing to address the decrease in his FAP benefits effective May 1, 2013.

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, p 2. In prospecting income, the Department is required to use income from the past thirty 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. If income received in the past 30 days is not a good indicator of future income, and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month, the Department must use income from the past 60 or 90 days for fluctuating or irregular income. BEM 505, p 5. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 6. Income received weekly is converted to a standard amount by multiplying the average of the weekly paychecks by the 4.3 multiplier. BEM 505, pp. 6-7.

At the hearing, the budget from the FAP EDG Net Income Results for the May 2013 benefit period was reviewed. (Exhibit 1). The Department concluded that Claimant had earned income of \$2,944.00. The Department testified that in calculating Claimant's monthly earned income, it considered 30 days of income using the following: (1) \$999.46 paid on March 15, 2013; (2) \$841.04 paid on March 22, 2013; (3) \$960.09 paid on March 29, 2013; (4) \$820.24 paid on April 4, 2013; and (5) \$493.62 paid on April 15, 2013. (Exhibit 2). The Department multiplied the average of paystubs by the 4.3

standard multiplier, as Claimant gets paid weekly. The Department testified that it applied the 20% earned income deduction to Claimant's total earned income. BEM 550 (February 2012), p. 1.

Claimant testified that he usually works about 38.5 hours per week and earns \$12.00 per hour. Claimant stated that the increased pay amounts used by the Department to calculate his earned income are due to his working overtime. He further testified that his overtime hours are uncertain because some weeks he is not needed or called in to work the extra hours. A further review of the pay detail summary provided by the Department supports Claimant's testimony. Claimant's pay varies and he does not get paid a consistent amount each week. (Exhibit 2). As such, the Department should consider Claimant's income during the past 60 or 90 days, as it more accurately reflects the income that is expected to be received in the benefit month. BEM 505, p 5. Therefore, the Department did not act in accordance with Department policy when it calculated Claimant's earned income.

The FAP budget shows that the Department properly applied the \$159.00 standard deduction applicable to Claimant's confirmed group size of four and the excess shelter deduction presented by the Department establishes that the \$575.00 standard heat and utility deduction available to all FAP recipients was properly applied. Claimant also confirmed that his housing costs were \$550.00 (Exhibit 1, Exhibit 3); RFT 255 (October 2012), p 1; BEM 554, pp. 11-12. However, because of the errors in the Department's calculation of Claimant's earned income, the Department did not act in accordance with Department policy when it calculated Claimant's FAP benefits.

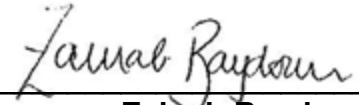
DECISION AND ORDER

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 calculated Claimant's FAP benefits. 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 eligible 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: June 24, 2013

Date Mailed: June 24, 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.

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

ZB/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
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