

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-50082
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: July 31, 2013
County: Wayne DHS (15)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on July 31, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility.

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 FAP benefit recipient.
2. On an unspecified date prior to 5/28/13, Claimant submitted proof of a property tax obligation to DHS.
3. On 5/28/13, DHS determined Claimant's FAP benefit eligibility, effective 7/2013, in part, based on \$0 property taxes.
4. On 6/3/13, for a second time, Claimant submitted proof of \$2475.47 in 2012 property taxes.

5. On 6/3/13, Claimant requested a hearing to dispute the FAP benefit determination for 7/2013.

CONCLUSIONS OF LAW

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. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that the request noted special arrangements for Claimant to participate in the administrative hearing. Claimant clarified that he had a stroke and speaks slowly. Claimant also stated that it would help if others spoke slowly. Claimant was advised that he could speak slowly. Claimant was further advised that he could ask anybody to repeat themselves if he did not understand something that was said. Claimant stated that this was an acceptable accommodation.

Claimant requested a hearing to dispute a FAP benefit determination, effective 7/2013. FAP benefit budget factors include: income, standard deduction, mortgage expenses, utility credit, medical expenses, child support expenses, day care expenses, group size and senior/disability/disabled veteran status. During the hearing, all of the budget factors were discussed (see Exhibits 1-3). The only factor disputed by Claimant was the amount of property taxes budgeted by DHS.

Claimant testified that he submitted proof of a property tax obligation to DHS several months prior to 5/28/13. Claimant testified that he submitted the proof again after receiving a Notice of Case Action dated 5/28/13, which failed to factor any property tax obligation. DHS initially denied that Claimant provided proof of a property tax obligation before, or after 5/28/13. Claimant presented a property tax statement (Exhibit 1) with a date stamp of 6/3/13. After seeing the date stamp, DHS conceded that Claimant submitted the statement on 6/3/13. Claimant's verified submission from 6/3/13 makes it probable that he also submitted the document prior to 5/28/13. The issue then becomes whether DHS should have acted on the submission.

DHS is to act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (11/2012), p. 5. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. *Id.*

In the present case, Claimant submitted verification for property taxes long before 5/28/13. DHS should have factored the property taxes in the determination affecting

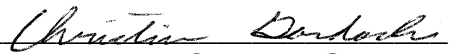
Claimant's 7/2013 FAP eligibility. Accordingly, the FAP benefit determination for 7/2013 was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP benefit eligibility. It is ordered that DHS:

- (1) redetermine Claimant's FAP benefit eligibility, effective 7/2013, subject to the finding that DHS improperly failed to factor Claimant's \$2475.47 property tax expenses; and
- (2) supplement Claimant for any benefits improperly not issued.

The actions taken by DHS are REVERSED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 8/8/2013

Date Mailed: 8/8/2013

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 effect the substantial rights of the 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
Reconsideration/Rehearing Request

2013-50082/CG

P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

