

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 2013-51710
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: July 8, 2013
County: Wayne (19)

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 July 8, 2013 from Detroit, Michigan. Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was [REDACTED] Eligibility Specialist.

ISSUE

Due to excess income, did the Department properly close Claimant's Food Assistance Program (FAP) case?

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 May 22, 2013, the Department sent Claimant a Notice of Case Action informing him that effective June 1, 2013, his FAP case would close due to excess income. (Exhibit 2).
3. On June 3, 2013, Claimant filed a hearing request disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

FAP

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, 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.

In this case, after receiving income verifications from Claimant, the Department determined that Claimant had steadily been working overtime since April 2013 and that his income exceeded the limit for FAP purposes, resulting in his ineligibility for FAP benefits. Claimant requested a hearing disputing this action by the Department.

At the hearing, the budget from the FAP EDG Net Income Results for the June 2013 benefit period was reviewed. (Exhibit 3). The Department concluded that Claimant had earned income of \$4,634.00. The Department testified that in calculating Claimant's monthly earned income, it considered the following: (1) \$2,340.91 paid on April 19, 2013; and (2) \$1,846.65 paid on May 3, 2013. (Exhibit 1). The Department is to multiply the average of paystubs by the 2.15 standard multiplier, as Claimant confirms that he gets paid bi-weekly. Multiplying the average of the paystubs used by the Department by the standard multiplier results in earned income of \$4,501.63, not the \$4,634.00 calculated by the Department. This error is harmless however; as Claimant's gross income still exceeds the limit for FAP purposes.

For FAP purposes, the applicable FAP gross income limit for Claimant's confirmed group size of five is \$2,9271.00. RFT 250 (October 2012), p. 1. Therefore, the Department acted in accordance with Department policy when it closed Claimant's FAP case effective June 1, 2013 due to excess income. Accordingly, the Department's FAP decision is AFFIRMED.

On May 22, 2013, the Department sent Claimant a Notice of Case Action informing him that effective June 1, 2013, his FAP case would close because his gross income of \$4,634.00 exceeded the limit for FAP purposes. (Exhibit 2). As discussed above, the Department acted in accordance with Department policy when taking that action. The Department, however; is required to give clients timely notice for a negative action, such as a case closure, unless policy specifies adequate notice or no notice. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pending to provide the client a chance to react to the proposed action. BAM 220 (November 2012), pp.3-4. In this case, the Department did not provide Claimant with timely notice of his case closure, as there was not at least 11 days from the time of mailing to the effective date of the case closure. Timely notice would result in a case closure effective date of July 1, 2013 not June 1, 2013 as indicated in the Notice of Case Action. Therefore, the Department did not act in accordance with Department policy when it did not provide Claimant timely notice of his case closure. As such, the Department's decision with respect to the effective date of Claimant's FAP case closure is REVERSED.

The Department is not required to supplement Claimant for FAP benefits for the month of June 2013, as Claimant filed a timely hearing request and confirmed that he received FAP benefits in the correct amount for the month of June 2013.

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 Department policy when it closed Claimant's FAP case due to excess income. Accordingly, the Department's decision with respect to FAP is AFFIRMED.

It is further found that the Department did not act in accordance with Department policy when it failed to provide Claimant with timely notice of the case closure, resulting in an effective closure date of June 1, 2013. Accordingly, the Department's action is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the effective date of FAP case closure of June 1, 2013; and

2. Impose effective date of FAP case closure as of July 1, 2013, in accordance with Department policy and consistent with this Hearing Decision.



Zainab Baydoun

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

Date Signed: July 15, 2013

Date Mailed: July 15, 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:

