

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-52017  
Issue No.: 3003  
Case No.: [REDACTED]  
Hearing Date: July 10, 2013  
County: Wayne DHS (19)

**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, a telephone hearing was held on July 10, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

**ISSUE**

The issue is whether DHS properly redetermined Claimant's Food Assistance Program (FAP) benefit 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. Claimant was a member of a two-person household.
3. On 5/29/13, DHS terminated Claimant's FAP benefit eligibility, effective 7/2013, due to an alleged failure by Claimant to verify information.
4. On 6/10/13, Claimant requested a hearing to dispute the FAP benefit termination.
5. Claimant received employment income of: \$410.40 on 6/6/13 and \$550.24 on 6/20/13.

6. Claimant's spouse received employment income of: \$453.60 on 5/31/13 and \$603.37 on 6/14/13.
7. On an unspecified date, DHS reinstated Claimant's FAP benefit eligibility, effective 7/2013, and determined that Claimant was eligible for \$16/month in FAP benefits, in part, based on a monthly household income of \$2310.
8. Claimant testified that she disputed the amount of FAP benefits determined by DHS following reinstatement of her benefit eligibility.

### **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).

Claimant originally requested a hearing to dispute a FAP benefit termination based on an alleged failure by Claimant to verify information. DHS conceded that the termination was improper; thus, DHS reinstated Claimant's FAP eligibility. Technically, Claimant's original hearing request raised a dispute over a benefit termination, not an amount of a benefit determination. It is tempting to dismiss Claimant's hearing request because DHS is entitled to receive notice of a dispute prior to an administrative hearing. If Claimant's hearing request was dismissed, Claimant would have to request a second hearing in order to dispute the benefit determination. The present circumstances do not justify such an outcome.

Claimant requested a hearing to dispute a FAP benefit decision which affected Claimant's FAP eligibility beginning 7/2013. DHS should have been prepared to defend the updated benefit determination knowing that Claimant did not withdraw her original hearing request. It is found that Claimant is entitled to an administrative review for the updated FAP benefit determination from 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. The only factor disputed by Claimant was the amount of employment income budgeted by DHS.

For non-child support income, DHS is to use past income to prospect income for the future unless changes are expected. BEM 505 (10/2010), p. 4. DHS 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. *Id.*

DHS was unable to specify which of Claimant's or her spouse's employment income pays were factored in the FAP benefit determination. It was established that Claimant and her spouse received bi-weekly employment income. DHS converts bi-weekly non-child support income into a 30 day period by multiplying the income by 2.15. *Id.*, p. 6. Multiplying Claimant's most recent bi-weekly pays results in a monthly employment income of \$1032. Multiplying Claimant's spouse's most recent bi-weekly pays results in a monthly employment income of \$1136. Adding the income results in a total employment income of \$2168. DHS budgeted an employment income of \$2310. Accordingly, DHS erred in determining the household employment income.

### **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 eligibility, effective 7/2013. It is ordered that DHS:

- (1) recalculate Claimant's FAP eligibility, effective 7/2013, subject to the finding that DHS is to budget the following biweekly employment income pays:
  - \$410.40 on 6/6/13 and \$550.24 on 6/20/13 for Claimant
  - \$453.60 on 5/31/13 and \$603.37 on 6/14/13 for Claimant's spouse; and
- (2) supplement Claimant for FAP benefits, if any, not received as a result of the improper determination.

The actions taken by DHS are REVERSED.



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

Date Signed: 7/19/2013

Date Mailed: 7/19/2013

**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

CG/hw

cc:

