

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201353135  
Issue No.: 3003  
Case No.: [REDACTED]  
Hearing Date: July 17, 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 17, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED], Manager.

**ISSUE**

The issue is whether DHS properly determined Claimant's 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 three-person household.
3. Claimant received employment income for the following gross employment amounts: \$171.36 on 1/4/13, \$517.31 on 1/11/13, \$794.94 on 1/18/13, \$494.29 on 1/25/13, \$509.91 on 2/1/13, \$391.10 on 2/8/13, \$278.64 on 2/15/13, \$814.65 on 2/22/13, \$697.58 on 3/1/13, \$642.93 on 3/8/13, \$521.26 on 3/15/13, \$776.30 on 3/22/13 and \$478.06 on 3/29/13.
4. In 12/2012, Claimant received \$492/month in Family Independence Program (FIP) benefits until he was determined to be noncompliant with employment-related activities effective 1/2013.

5. Claimant had a monthly \$800 rent obligation.
6. On 5/31/13, DHS determined Claimant to be ineligible for FAP benefits effective 6/2013.
7. On 6/17/13, Claimant requested a hearing to dispute the FAP benefit determination.

### **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 requested a hearing to dispute a FAP benefit termination, effective 6/2013. It was not disputed that the termination was based on budget ineligibility. BEM 556 outlines the proper procedures for calculating FAP benefit eligibility.

DHS could not verify which of Claimant's pays were factored in the benefit determination. Claimant contended that DHS should have used a 90 day period to prospect Claimant's income because his pay from 3/2013 was an unfair representation of his future income. For purposes of this decision, Claimant's contention will be accepted as correct.

DHS converts weekly non-child support income into a 30 day period by multiplying the income by 4.3. BEM 505 (10/2010), p. 6. Multiplying Claimant's average weekly income over the period of 1/2013-3/2013 by 4.3 results in a monthly employment income of \$2344. It was not disputed that DHS prospected Claimant's income to be \$2265. Claimant is not entitled to a remedy when DHS used a lesser (i.e. more favorable) income to determine FAP benefit eligibility.

DHS counts 80% of a FAP member's timely reported monthly gross employment income in determining FAP benefits. Applying the 20% deduction to the employment income creates a countable monthly employment income of \$1812.

It was not disputed that DHS budgeted \$492 in FIP benefits in the 6/2013 FAP determination. It was not disputed that Claimant stopped receiving the FIP benefits in 12/2012, but that DHS continued to budget the income as part of a 6 month noncompliance penalty.

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may apply if the client is active FIP/RCA and FAP and becomes noncompliant with a cash program requirement without good cause. BEM 233B

(1/2013), p. 1. Bridges applies policies associated with a FIP related noncompliance and budgets the last FIP grant amount into the FAP budget. *Id.*, p. 3. The FIP grant is removed from the FAP budget at the end of the FIP penalty period. *Id.* For a second or subsequent occurrence of noncompliance, DHS is to disqualify the person for six months or until compliance, whichever is longer. *Id.*

DHS alleged that Claimant was determined to be noncompliant with FIP and FAP in 12/2012, presumably for a second time. Claimant did not dispute the DHS allegation. Thus, the budgeting of \$492 in FIP benefits is deemed to be proper. Adding the countable employment and unearned income results in a running income total of \$2304.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (11/2012), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, DHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members. For groups containing SDV members, DHS also considers the medical expenses for the SDV group member(s) and an uncapped excess shelter expense. Claimant did not allege that his household had any SDV members.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. DHS applies a \$35/month copayment to monthly medical expenses. It was not disputed that Claimant's group had no medical, day care or child support expenses.

Claimant's FAP benefit group receives a standard deduction of \$148. RFT 255 (10/2012), p. 1. The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is also subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$2156

It was not disputed that Claimant had an \$800/month rental expense. DHS gives a flat utility standard to all clients. BEM 554 (1/2011), pp. 11-12. The utility standard of \$575 (see RFT 255 (10/2012, p. 1) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$575 amount. The total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$1375.


DHS only credits FAP benefit groups with what DHS calls an "excess shelter" expense. This expense is calculated by taking Claimant's total shelter obligation and subtracting half of Claimant's adjusted gross income. Claimant's excess shelter amount is found to be \$297. DHS determined a higher and more favorable credit of \$397. For purposes of this decision, the more favorable credit of \$397 will be accepted as correct.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. The FAP benefit group's net income is found to be \$1759. A chart listed in RFT 260 is used to determine the

proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant is ineligible for FAP benefits. Accordingly, the FAP benefit termination was proper.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FAP benefit eligibility, effective 6/2013. The actions taken by DHS are AFFIRMED.

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

Date Signed: 7/25/2013

Date Mailed: 7/25/2013

**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:

