

**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.: 2013-55062
Issue No.: 3002
Case No.: ██████████
Hearing Date: August 19, 2013
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 hearing was held on August 19, 2013, in Madison Heights, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, ES.

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 received benefits for FAP.
2. On June 12, 2013, the Department sent Claimant notice of the calculation, which would be effective July 1, 2013. (Exhibit 3, p.1)
3. On June 18, 2013, Claimant filed a hearing request, protesting the calculation.
4. At the hearing, Claimant presented documentation from the Social Security Administration (Exhibits A, B, C) and State of Michigan (Exhibit D) which showed an income amount different than that used by the Department in its calculation.

CONCLUSIONS OF LAW

Department policies are contained in the 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 1999 AC, Rule 400.3001 through Rule 400.3015.

BEM 550 instructs that eighty percent of the earned income of a household be added to unearned income to determine gross income. Monthly net income for FAP purposes is then determined by subtracting allowable expenses, such as a shelter deduction, if any. BEM 554

In the present case, Claimant presented documentation from the Social Security Administration and the State of Michigan, (Exhibits A-D) which showed an income amount different that amount used by the Department in its calculation of Claimant's income. It is therefore concluded that the Department was not correct in its calculation of Claimant's budget. It is noted that Claimant also addressed housing cost issues, but did not present written verification from his landlord of the total amount of rent paid, which, according to Claimant, includes real estate taxes. Therefore, Claimant the order to recalculate herein is based solely on Claimant's proofs regarding income.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department improperly calculated Claimant's FAP benefits.

DECISION AND ORDER

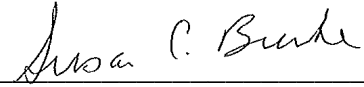
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act properly.

Accordingly, the Department's FAP decision is REVERSED for the reasons stated on the record.

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

1. Initiate recalculation of Claimant's FAP benefits, effective July 1, 2013.
2. Notify Claimant in writing of the new calculation.

3. Issue FAP supplements for any increased payment, in accordance with Department policy.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 27, 2013

Date Mailed: August 28, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:
Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

SCB/tm

cc: 