

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-56276
Issue No.: 3003
Case No.: ██████████
Hearing Date: August 1, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 August 1, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits effective June 1, 2013, ongoing?

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 is an ongoing recipient of FAP benefits.
2. On May 23, 2013, Claimant submitted her completed Redetermination form online. Exhibit 1.
3. On May 28, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved in the amount of \$16 effective June 1, 2013, ongoing. Exhibit 1.
4. On June 27, 2013, Claimant filed a hearing request, protesting her FAP allotment. Exhibit 1.

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 Mich Admin Code, R 400.3001 through R 400.3015.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (October 2010), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 6. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, p. 6.

Moreover, the Department counts the gross amount as unearned income regarding unemployment benefits. BEM 503 (May 2013) p. 26. Also, the Department uses the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505, p. 3.

It should be noted that the Department presented both the FAP June 2013 budget and the Notice of Case Action, which also contained a budget. See Exhibit 1. However, during the hearing, it was discovered that both documents contained different calculations. Both documents did conclude that Claimant is only entitled to \$16. Nevertheless, the hearing proceeded with using the calculations that the Notice of Case Action contained. See Exhibit 1.

It was not disputed that the certified group size is two and that no group members are a senior/disabled/disabled veteran (SDV) member. The Department calculated Claimant's gross earned income to be \$1,172, which the Claimant did not dispute. Also, the Department calculated Claimant's gross unearned income to be \$633. The Department testified that the unearned income consisted of Claimant's unemployment benefits and child support income. The Department testified that Claimant received the following months of child support income: \$250 for March 2013 and \$0 for April/May 2013. The Department testified that it took the average of the past three calendar months, which resulted in an average child support payment of \$83. BEM 505, p. 3. Claimant did not dispute this amount.

Next, the Department testified that the remaining unearned income consisted of Claimant's unemployment benefits. The Department first testified that Claimant's unemployment income for April 2013 was approximately \$468. Then, the Department testified that Claimant received the following unemployment benefit payments: \$294 for April 1, 2013; \$376 for April 15, 2013; and \$201 for April 29, 2013. During the hearing, the Department was unable to testify or present evidence of how it calculated Claimant's unemployment income.

Moreover, Claimant testified that she did not receive any unemployment benefits for May 2013 and thus, it should not be included in the June 2013 budget. On May 28, 2013, the Department testified, though, at the time it processed the Redetermination, its consolidated inquiry reports indicated Claimant was receiving unemployment benefits. Thus, the Department is inferring that it had no reason to end the income and used the information it had best available when it budgeted her June 2013 FAP benefits. However, Claimant testified that she indicated in her Redetermination that she would no longer receive unemployment benefits for May 2013. See Exhibit 1. A review of Claimant's Redetermination does indicate that she would no longer receive unemployment benefits as of May 1, 2013. See Exhibit 1.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (March 2013), p. 7. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 7. Unearned income reporting required that the Claimant report the starting or stopping a source of unearned income. BAM 105, p. 7.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's FAP benefits effective June 1, 2013, ongoing because the Department failed to satisfy its burden of showing how it calculated her unemployment income.

Moreover, Claimant's last unemployment payment was received on April 29, 2013, but she did not report the change until the redetermination was submitted on May 23, 2013. Claimant did not report within 10 days of receiving the first payment reflecting the change. BAM 105, p. 7. Thus, it was proper for the Department to include her unemployment benefits in the June 2013 budget as that was the best available information the Department had at the time of processing. However, the Department is to exclude the unemployment benefits in Claimant's July 2013 budget as the reported change should reflect that benefit period.

It should also be noted that the Department did not include any housing expenses for the Claimant. However, Claimant testified that she had \$200 in housing expenses. Claimant testified that this change occurred on June 5, 2013 and she reported it on that date as well. Again, this reported change is after the processing and the benefit time period. Thus, the Department properly included \$0 in housing expenses for Claimant's June 2013 budget. See BAM 105, p. 7-8.

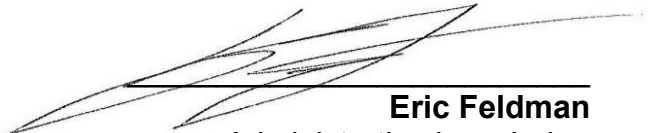
DECISION AND ORDER

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 when it calculated Claimant's FAP budget effective June 1, 2013, ongoing.

Accordingly, the Department's ☐ AMP ☐ FIP ☒ FAP ☐ MA ☐ SDA ☐ CDC decision is ☐ AFFIRMED ☒ REVERSED for the reasons stated on the record.

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

1. Begin recalculating the FAP budget for June 1, 2013, ongoing,
2. The Department shall exclude Claimant's unemployment benefits as unearned income for July 1, 2013, ongoing;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from June 1, 2013, ongoing; and
4. Notify Claimant in writing of its decision in accordance with Department policy.


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

Date Signed: August 6, 2013

Date Mailed: August 6, 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

EJF/cl

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