

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201358775
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: August 15, 2013
County: Wayne DHS (17)

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 August 15, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) benefit eligibility, effective August 2013.

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 received gross employment income of \$667.09 on June 7, 2013 and \$668.16 on June 21, 2013.
3. Claimant reported to DHS a rental obligation of \$137.00 per month.
4. DHS failed to request verification of Claimant's rental obligation.
5. On July 8, 2013, DHS mailed Claimant a Notice of Case Action (Exhibits 1-3) determining Claimant's FAP benefit eligibility, effective August 2013, in part, based on a monthly income of \$1,435.00 and \$0.00 rent obligation.

6. On July 12, 2013, Claimant requested a hearing to dispute the FAP benefit determination.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. 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 redetermination effective August 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. The budget factors relied on by DHS were discussed with Claimant during the hearing. Claimant only objected to the amounts used by DHS concerning employment income and rent.

It was not disputed that DHS determined Claimant's FAP benefit eligibility based on Claimant's gross employment income. Claimant contended that DHS should have factored net income.

Wages are the pay an employee receives from another individual or organization. BEM 501 (7/2012), p. 1. Bridges (the DHS database) counts gross wages except as explained in this item or BEM 503 for: earned income tax credits, flexible benefits, striker earnings, student income disregard or census workers. *Id.*

Claimant is not eligible for any of the exception to the use of gross income. Thus, DHS properly determined Claimant's FAP benefit eligibility based on gross income.

DHS converts bi-weekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 (10/2010), p. 6. Multiplying Claimant's bi-weekly income by 2.15 results in a monthly employment income of \$1,435.00, the same amount calculated by DHS. Thus, DHS properly determined Claimant's income in the FAP benefit determination.

It was undisputed that the FAP benefit determination in dispute factored \$0.00 as Claimant's monthly housing obligation. Claimant testified that she reported a \$137.00 rental obligation to DHS. Claimant testified that she never verified the obligation to DHS because DHS never requested verification. DHS essentially conceded Claimant's testimony and conceded to give Claimant time to verify the rental obligation so that it may be considered in the benefit determination. Based on the settlement of the parties, DHS will be ordered to request verification of Claimant's rental obligation for consideration of the FAP benefit determination from August 2013.


It should be noted that the hearing included discussions that DHS owed Claimant a redetermination of FAP benefits from July 2013. Claimant requested a hearing to dispute a FAP benefit determination affecting August 2013 eligibility; accordingly, the below order does not address Claimant's FAP benefit eligibility from July 2013.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's income in the FAP benefit determination for August 2013. The actions taken by DHS are **PARTIALLY AFFIRMED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's eligibility for FAP benefits and accordingly, these actions by DHS are **REVERSED**. It is ordered that DHS:

- (1) redetermine Claimant's FAP benefit eligibility, effective August 2013, subject to the finding that DHS failed to request verification of Claimant's rental obligation; and
- (2) initiate supplemental benefits, if any, not issued as a result of the DHS failure to properly request verification of shelter expenses.


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

Date Signed: August 21, 2013

Date Mailed: August 21, 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

CG/aca

cc:

