

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

IN THE MATTER OF:



Reg. No.: 2014-17146
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: January 13, 2014
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on January 13, 2014, 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 determined Claimant's Food Assistance Program (FAP) 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. On [REDACTED]/13, Claimant submitted a Wage Match Client Notice (Exhibits 4-5) which noted that Claimant received biweekly income of \$2,100 per two weeks.
3. On an unspecified date, DHS determined Claimant's FAP eligibility, effective 11/2013, in part based on a monthly income of \$4,515 and no credit for employment income.
4. On [REDACTED]/13, Claimant requested a hearing to dispute the 11/2013 determination of FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a FAP benefit determination only for 11/2013. Claimant's testimony further narrowed his dispute to the amount of income budgeted by DHS and the failure by DHS to factor an employment income credit.

It was not disputed that Claimant received \$2,100/two weeks in employment income. DHS converts bi-weekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 (7/2013), pp. 7-8. Multiplying Claimant's bi-weekly income by 2.15 results in a countable employment income of \$4,515, the same amount calculated by DHS. It is found that DHS properly determined Claimant's employment income.

In determining Claimant's FAP benefit eligibility for 11/2013, DHS did not credit Claimant with any employment income credits. In determining FAP eligibility, DHS is to count 80% of a client's employment income. BEM 556 (7/2013), p. 3. DHS notes one exception to giving an employment income credit; DHS does not allow a 20% earned income deduction when determining overissuances due to a client failure to report earned income (see BEM 720 Intentional Program Violation). *Id.*

DHS alleged that Claimant misreported his employment income on a Semi-Annual Income Report signed by Claimant on [REDACTED]/13 and submitted to DHS on [REDACTED]/13. DHS contended that Claimant's alleged misreporting justifiably resulted in omission of an employment credit in determining Claimant's FAP eligibility for 11/2013.

The DHS contention is flawed for multiple reasons including that persuasive evidence was not presented that Claimant misreported employment income. A more compelling reason to find that DHS erred is that DHS may not omit the employment credit when determining ongoing benefit eligibility. The 20% income credit omission is only appropriate for IPV budgets when determining benefit overissuances; the present case concerns ongoing benefit eligibility. Accordingly, DHS erred in failing to credit Claimant with a 20% employment income credit in determining Claimant's FAP eligibility for 11/2013.

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 monthly countable income as \$4,515 in determining Claimant's FAP eligibility for 11/2013. 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 omitted an employment income credit in determining Claimant's FAP eligibility for 11/2013. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FAP eligibility for 11/2013 subject to the finding that Claimant is entitled to a 20% employment income credit; and
- (2) supplement Claimant for any FAP benefits improperly not issued.

The actions taken by DHS are **PARTIALLY REVERSED**.



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

Date Signed: 1/22/2014

Date Mailed: 1/22/2014

NOTICE OF APPEAL: 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.

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).

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/hw

cc:

