

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-17911
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: January 15, 2014
County: Wayne (31)

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 15, 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 income in determining 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. Respondent received the following gross employment income from one of her employers: \$180 on [REDACTED]/13, \$385.50 on [REDACTED]5/13, \$224 on [REDACTED]/13 and \$368 on [REDACTED]/13.
3. Respondent also received the following gross employment from a second employer: \$36 on [REDACTED]/13, \$91 on [REDACTED]/13, \$0 on [REDACTED]/13 and \$288 on [REDACTED] 13.
4. Respondent received the following child support income: \$0 in 9/2013, \$0 in 10/2013 and \$148.53 in 11/2013.

5. On [REDACTED]/13, DHS determined Claimant's 12/2013 FAP eligibility to be \$44.
6. On [REDACTED] 13, Claimant requested a hearing to dispute the amount of income budgeted by DHS in determining her FAP eligibility.
7. On [REDACTED]/13, DHS updated Claimant's FAP eligibility for 12/2013, in part, based on \$1690 in employment income and \$139 in unearned income.

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 DHS determination of FAP benefits to be effective 12/2013. It was not disputed that DHS updated a benefit determination following the submission of Claimant's hearing request. Claimant testified that she still disputed the updated FAP benefit determination. This administrative decision will address the correctness of the [REDACTED]/13 FAP benefit determination made by DHS. During the hearing, all FAP budget factors were discussed with Claimant. Claimant only objected to the amount budgeted by DHS for employment income and unearned income.

Claimant's hearing request suggested that Claimant also objected to a failure by DHS to factor a change in employment reported by one of Claimant's employers. Claimant stated that one of her employers faxed a document which should verify that she has not worked in a month and that she has no set schedule.

For non-child support income, DHS is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505 (7/2013), p. 5 If there is a change in expected hours, but no change in the rate of pay, DHS is to use the expected hours times the rate of pay to determine the amount to budget per pay period. *Id.*, p. 6.

Claimant's hearing request statement implied that DHS should not have relied on the previous 30 days of employment pays because of a reduction in hours for one of her jobs. Claimant never raised the issue at hearing and did not provide any evidence to substantiate her claim. Based on the presented evidence, DHS should have prospected Claimant's employment income based on Claimant's previous 30 days of employment income.

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 reported weekly income by 4.3 results in a monthly employment income of \$1,690, the same amount budgeted by DHS (see Exhibit 1). The DHS calculation of income is found to be proper.

Claimant also objected to the amount of unearned income budgeted by DHS. DHS presented testimony that the source of Claimant's household's unearned income was child support. To prospect child support income in determining FAP eligibility, DHS is to use the average of child support payments received in the past three calendar months, unless changes are expected. *Id.*, p. 3.

Claimant disputed her FAP eligibility for 12/2013. Ultimately, DHS made the determination on [REDACTED] 13. DHS could not state how Claimant's child support was calculated. DHS presented Claimant's child support history from the three months before 12/2013. Claimant's child support income from 9/2013-11/2013 verified a monthly average of income of \$50.30. DHS factored \$139 in unearned income in determining Claimant's FAP eligibility (see Exhibit 1). It is found that DHS erred in determining Claimant's unearned income.

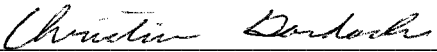
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's employment income in determining Claimant's FAP eligibility for 12/2013. 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 unearned income in determining Claimant's FAP eligibility for 12/2013. It is ordered that DHS perform the following actions:

- (1) recalculate Claimant's child support income using Claimant's average child support income from the period of 9/2013-11/2013; and
- (2) supplement Claimant for any 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:

