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

IN THE MATTER OF:

[redacted]

Reg. No.: 2014-25079
Issue No(s).: 3008
Case No.: [redacted]
Hearing Date: March 3, 2014
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 March 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [redacted] Assistance Payment Worker [redacted], Assistance Payment Supervisor.

ISSUE

Did the Department properly calculate the amount of 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 was an ongoing recipient of FAP benefits.

2. In connection with a redetermination, Claimant's eligibility to receive FAP benefits was reviewed.

3. On January 23, 2014, the Department sent Claimant a Notice of Case Action informing her that effective February 1, 2014, she was approved for FAP benefits in the amount of [redacted] Exhibit 1, pp.1-6)

4. On January 24, 2014, Claimant submitted a hearing request disputing the amount of her FAP benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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.

Additionally, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2014), pp. 1 – 4.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2013), p. 1. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 4.

If income received in the past 30 days is not a good indicator of future income, and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month, the Department must use income from the past 60 or 90 days for fluctuating or irregular income. BEM 505, p 5.

A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received weekly is converted to a standard amount by multiplying the average of the weekly paychecks by the 4.3 multiplier. BEM 505, pp. 8. The Department is to apply a 20% earned income deduction to Claimant's gross countable earned income. BEM 550 (February 2014), p. 1.

At the hearing, the FAP EDG Net Income Results Budget was reviewed. (Exhibit 1,pp. 26-27). The Department concluded that Claimant had earned income of [redacted] which came from Claimant's employment. Specifically, the Department stated that it relied on paystubs submitted by Claimant and considered Claimant's weekly earnings of :(i) [redacted] paid on December 6, 2013; (ii) $[redacted]0 paid on December 13, 2013; (iii) [redacted] paid on December 20, 2013; and (iv) [redacted] paid on December 27, 2013. (Exhibit 1, pp.28-31). After further review, Claimant's gross monthly income based on the average weekly paystubs relied on, multiplied by 4.3 does not total [redacted]

Additionally, Claimant testified that between the months of November and February, she works overtime and that her overtime hours are inconsistent. Claimant's paystub from December 20, 2013, should be discarded, as it is unusually high and takes into

consideration a higher amount of overtime hours that Claimant stated is not expected to continue.

The budget shows that the Department properly applied the [redacted] standard deduction applicable to Claimant's confirmed group size of three and that the [redacted] standard heat and utility deduction available to all FAP recipients was properly applied. RFT 255 (December 2013), p 1; BEM 554 (July 2013), pp. 14-15. The Department also considered housing costs of $695, which Claimant confirmed were correct.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that because of the errors in the calculation of Claimant's earned income, the Department did not act in accordance with Department policy when it determined that Claimant was eligible for FAP benefits in the amount of [redacted]

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Claimant's FAP budget for February 1, 2014, ongoing; and

2. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from February 1, 2014, ongoing.

Zainab Baydoun

Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 6, 2014

Date Mailed: March 6, 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

ZB/tm

cc: [redacted]
[redacted]
[redacted]
[redacted]
[redacted]n