

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

IN THE MATTER OF:

[REDACTED]

Reg. No.:
Issue No(s):
Case No.:
Hearing Date:
County:

[REDACTED]

ADMINISTRATIVE LAW JUDGE: MICHAEL S. NEWELL

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 [REDACTED] [REDACTED] [REDACTED] from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Hearings Facilitator.

ISSUE

Did the Department properly calculate Claimant's FAP allotment?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In response to a decision of an Administrative Law Judge, the Department recalculated Claimant's FAP from [REDACTED] [REDACTED] and included use of Claimant's [REDACTED] income tax return, as directed.
2. Claimant contests that the Department did not count Claimant computer purchase for his work office, a plowing bill for \$ [REDACTED] car and truck expenses, and that certain repair and maintenance expenses should have been annualized rather than solely counted in the month they were incurred.
3. Claimant incurred a \$ [REDACTED] bill for painting that the Department counted for the month incurred, [REDACTED] [REDACTED]
4. The Department also counted \$ [REDACTED] for roof repair for the month incurred only.

5. The Department demonstrated that it counted the computer purchase under the category of supplies, and included these in FAP budget.
6. Claimant indicated that this was acceptable at the hearing and did not further contest the issue.
7. It is undisputed that Claimant provided requested income verifications and expenses. (See Verification Checklist at Exhibit 3).
8. On [REDACTED] [REDACTED] the Department expressly requested documentation for “the \$ [REDACTED] car/truck expense.” (Exhibit 3).
9. Claimant provided no such documentation.
10. On [REDACTED] [REDACTED] the Department issued a decision regarding Claimant’s FAP benefits from [REDACTED] [REDACTED] to [REDACTED] [REDACTED].
11. Claimant requested hearing on [REDACTED] [REDACTED].

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.

Whether the car/truck expenses should be considered as allowable expenses has already been addressed by [REDACTED] [REDACTED] who provided in the [REDACTED] [REDACTED] Decision and Order that BEM 502, p 3 provides that an income tax return is the primary verification source, which is an acceptable verification per BEM 502. (See Exhibit 2, pages 4-5). This matter has already been addressed, and the undersigned agrees that BEM 502 provides that an income tax return is appropriate verification of such expense. The Department would do well to carefully reread Judge Feldman’s decision and apply it as written.

Concerning building repairs and maintenance, the worker cited no policy for the decision to count these expenses solely for the month incurred, other than a directive from her supervisor.

Countable income for self-employment equals all proceeds minus allowable expenses. BEM 502, p 3. It is undisputed that the repair and maintenance expenses were allowable expenses. Thus, the snow removal shall be deducted from proceeds to determine countable income. Such expenses shall be annualized, with a prorate share

distributed over twelve months to determine applicable monthly income for FAP budget purposes.

The receipt for snow removal is legible, and it totals \$ [REDACTED]. This is also an allowable expense.

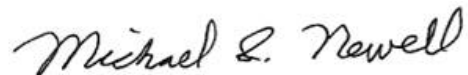
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it calculated Claimant's FAP budget.

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 consistent with this Decision..
2. Issue any applicable supplemental benefits
3. Notify Claimant of its decision in writing and in accordance with policy.



Michael S. Newell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 25, 2014

Date Mailed: April 25, 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

MSN/las

cc:

