

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

IN THE MATTER OF:

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████████████████████
████████████████████

Reg. No.: 14-001932
Issue No.: 3008, 1003
Case No.: ██████████
Hearing Date: June 4, 2014
County: WAYNE 15 (GREYDALE)

ADMINISTRATIVE LAW JUDGE: LYNN M. FERRIS

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 three way telephone hearing was held on June 4, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████, Eligibility Specialist.

ISSUE

Did the Department properly calculate the Claimant's 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. The Department issued a Notice of Case Action on April 25, 2014 which reduced the Claimant's FAP and FIP benefits based upon the check stubs they had at the time. The Claimant was an ongoing recipient of FIP and FAP.
2. The Department received new pay information from the Claimant's employer not in a timely manner, but did receive new pay stubs. The pay stubs were received via fax on May 20, 2014.
3. The Claimant and the Department agreed that the Claimant did provide pay stubs in April 2014 which were used to calculate the Claimant's FAP and FIP benefits.

4. The Department did not provide any information to demonstrate how the Department determined the amount of earned income. No check stubs were presented or available.
5. The Claimant requested a hearing on May 3, 2014 protesting the amount of earned income used by the Department was not correct.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Additionally, in this case the issue to be resolved involved the Department's determination of the earned income used to calculate the Claimant's FAP and FIP benefits to substantiate the reduction of both benefits. The Claimant's hearing request was very clear and put the Department on notice of the issue to be decided "My earned income per month is [REDACTED] at [REDACTED]0 per hour per 10 hours per week, 2 hours, 5 days [REDACTED]." The Department, because it did not have access to the pay stubs or the file, did not present any evidence regarding its determination of earned income and thus did not meet its burden of proof.

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

failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated the earned income utilized for determining FIP and FAP benefits and failed to provide any basis for its determination of earned income of [REDACTED] used to calculate the Claimant's FAP and FIP benefits.

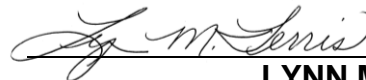
DECISION AND ORDER

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. The Department shall recalculate the Claimant's FAP and FIP benefits established by the Notice of Case Action issued 4/25/14 and shall utilize the pay stubs provided by Claimant's employer on May 20, 2014 when calculating the FAP and FIP benefits for June 2014.
2. The Department shall issue a supplement for FIP and FAP benefits the Claimant was otherwise entitled to receive in accordance with Department policy.



LYNN M. FERRIS

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

Date Signed: **6/12/2014**

Date Mailed: **6/13/2014**

LMF/tm

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]