

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

IN THE MATTER OF:



Reg. No.: 14-008786
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: September 24, 2014
County: Wayne (15)

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, an in-person hearing was held on September 24, 2014, from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED], Specialist, testified on behalf of Department of Human Services (DHS).

ISSUES

The first issue is whether DHS properly processed Claimant's reported stoppage in employment income concerning Food Assistance Program (FAP) eligibility for 4/2014 and 5/2014.

The second issue is whether DHS properly determined Claimant's income and group size concerning FAP eligibility for 6/2014 and 7/2014.

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. Claimant's household included four persons, including a 19 year old son that stopped attending college in 12/2013.
3. Claimant was an ongoing employee for a temp agency.

4. On 5/23/14, Claimant reported to DHS that she stopped working for a temp agency.
5. On an unspecified date, Claimant began new employment which resulted in the following gross pays: \$91.44 on 5 [REDACTED], \$213.26 on [REDACTED], \$243.84 on [REDACTED], and \$243.84 on [REDACTED].
6. On an unspecified date, DHS determined Claimant's FAP eligibility for 4/2014 and 5/2014, in part, by factoring Claimant's temp agency employment.
7. On an unspecified date, DHS determined Claimant's FAP eligibility for 6/2014, in part, based on a FAP group size of 3 persons and monthly employment income of \$827.
8. On [REDACTED], Claimant requested a hearing to dispute her FAP eligibility from 4/2014-7/2014.

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, in part, to dispute her FAP eligibility from 4/2014 and 5/2014. Claimant contended that DHS failed to determine her eligibility based on a stoppage in employment income.

Claimant credibly testified that she last worked for a temp agency on 4/6/14 and received her last pay check on 4/14/14. The date that Claimant reported the job loss to DHS is the deciding factor in determining when DHS is to process the change.

On a Semi-Annual Contact Report (SACR) submitted to DHS on 5/23/14, Claimant listed no employment income. Both sides agreed that Claimant subsequently added a statement to the SACR stating that she lost her temp agency employment. Thus, 5/23/14 appears to be the date that Claimant reported the income stoppage to DHS.

Claimant also testified that's he reported the stoppage in employment on a State Emergency Relief (SER) Application. The SER application date was not verified,

however, it is presumed to have been submitted near in time to [REDACTED] based on Claimant's testimony that she submitted it to DHS at the end of 5/2014. It is found that Claimant reported the job loss to DHS on [REDACTED]

For FAP benefits, income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. BEM 505 (7/2013), p. 10. Do not process a change for a month earlier than the month the change occurred. *Id.* A supplement may be necessary in some cases. *Id.*

Based on DHS policy, the earliest that Claimant could have expected DHS to factor her job loss in her FAP eligibility was 6/2014, the month after she reported the job loss. Accordingly, it is found that DHS properly included Claimant's temp agency employment income in determining Claimant's FAP eligibility for 4/2014 and 5/2014.

Claimant also raised a dispute concerning FAP eligibility from 6/2014 and 7/2014 concerning employment income. Claimant began new employment in 6/2014.

Typically, DHS is to prospect newly reported employment income based on projected hours and rate of pay. In the present case, DHS presented testimony that Claimant's FAP eligibility for 6/2014 and future months was based on Claimant's actual pays. Claimant received biweekly pays from her new employment.

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. This conversion takes into account fluctuations due to the number of scheduled pays in a month. *Id.*, p. 8.

DHS presented Claimant's first four pays from her new employment (see Exhibits 4-5). Claimant received \$213.26 on [REDACTED] and \$243.84 on [REDACTED]. Converting Claimant's pays to a 30 day period results in a proper budgeted employment income amount of \$491.

DHS determined Claimant's employment income as \$827 (see Exhibit 3). DHS could not justify how they arrived at an employment income amount of \$827. DHS presented an Employment Budget Summary (Exhibit 6) which appeared to list that Claimant had 4 different jobs being factored; it was not disputed that as of 6/2014, Claimant only had one job. It is found that DHS improperly determined Claimant's employment income, beginning 6/2014.

A dispute also arose concerning group size. DHS presented an Eligibility Summary (Exhibit 1). The summary indicated that DHS factored 3 persons in Claimant's FAP eligibility for 5/2014 and 6/2014. It was not disputed that Claimant was a member of a 4 person household.

A person enrolled in a post-secondary education program may be in student status. BEM 245 (7/2013), p. 1. A person in student status must meet certain criteria in order to be eligible for assistance. *Id.*

Claimant presented testimony that her household included her 19 year old son who attended college through 12/2013. DHS conceded that Claimant's son was not enrolled in a post-secondary education program in 5/2014. DHS also conceded that Claimant's son should have been included in the FAP benefit group for 5/2014. Accordingly, DHS improperly determined Claimant's FAP eligibility for 5/2014 and 6/2014 based on improper group size.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP eligibility. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FAP eligibility for 5/2014 and 6/2014 subject to the finding that Claimant's FAP group size was 4 persons;
- (2) redetermine Claimant's FAP eligibility for 6/2014 and 7/2014 subject to the finding that Claimant's employment income was \$491; and
- (3) issue a supplement of FAP benefits for benefits improperly not issued.

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



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

Date Signed: **10/3/2014**

Date Mailed: **10/3/2014**

CG / hw

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:

