

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

IN THE MATTER OF:

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

Reg. No.: 14-010757
Issue No.: 3003
Case No.: ██████████
Hearing Date: October 22, 2014
County: WAYNE (41)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 October 22, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Hearing Facilitator.

ISSUE

Did the Department properly determine Claimant's monthly benefit amount for 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 is an ongoing FAP recipient.
2. On July 15, 2014, the Department mailed Claimant a Redetermination to be completed and returned by August 1, 2014.
3. Claimant timely returned the Redetermination and listed her only employer as the ██████████.
4. The Department completed a consolidated inquiry and discovered that during the second quarter of 2014, Claimant had two employers.
5. The Department notified Claimant that her FAP benefits would be reduced to \$15.00.

6. On August 26, 2014, Claimant filed a Request for Hearing disputing the Department's actions.

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 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, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (July 2014), pp. 1 – 4. In this case, the Claimant requested a hearing because she believed that her FAP benefits had not been properly calculated as she previously received \$189.00 per month and that amount was reduced to \$16.00 per month.

On July 15, 2014, the Department mailed Claimant a Redetermination form to be completed and returned by August 1, 2014. Claimant completed the Redetermination which the Department testified that she indicated employment with the [REDACTED]. The Department failed to present the Redetermination at the hearing. The Department testified that it completed a consolidated inquiry which showed that Claimant worked at [REDACTED] and the [REDACTED] during the second quarter of 2014. Claimant testified that her employment ended with [REDACTED] on April 4, 2014 and that she began working with the [REDACTED] on a contractual basis on April 29, 2014. Claimant further testified that she left a voice message for her worker when her employment ended with [REDACTED].

The Department presented a budget which showed Claimant's earned income of \$1,327.00. The Department failed to present any pay stubs or a wage match showing actual income or how it determined the \$1,327.00 earned income amount. Further, the Department failed to present the Notice of Case Action sent to Claimant notifying her that her new FAP benefit amount would be \$15.00 per month. The Department testified that Claimant's income from [REDACTED] was used in computing her monthly FAP benefit amount even though Claimant's employment ended with [REDACTED] more than 90 days prior to the date the Redetermination was mailed. The Department should not have included income from [REDACTED] as Claimant reported to her assigned worker that her employment had ended.

The Department stated that it did not budget shelter expenses for Claimant. Claimant confirmed that she does not pay rent expenses but stated that she pays utilities and assists with payment of the taxes. The Department failed to present a Shelter Deduction budget and there is no way to determine if Claimant's shelter deduction was budgeted correctly. It is therefore found that the Department failed to establish that it properly determined Claimant's eligibility for FAP benefits.

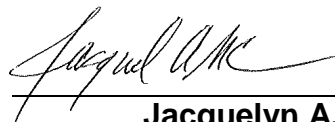
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with policy when it determined that Claimant was eligible for \$15.00 per month in FAP benefits.

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. Reinstate Claimant's prior FAP benefit amount; and
2. Issue supplements to Claimant from the date of Notice of Case Action reducing Claimant benefits to \$15.00 or \$16.00;



Jacquelyn A. McClinton
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/27/2014**

Date Mailed: **10/27/2014**

JAM / cl

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]