

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-008158
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: September 4, 2014
County: WAYNE-57 (CONNER)

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 telephone hearing was held on September 04, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payments Worker.

ISSUE

Did the Department properly calculate the Claimant's Food Assistance (FAP) benefits and unearned income?

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 Claimant was an ongoing recipient of food assistance benefits.
2. On July 21, 2014, the Department issued a Notice of Case Action, which reduced the Claimant's food assistance benefits. Exhibit 1
3. The Claimant's food assistance group consisted of five members. The Claimant receives RSDI benefits in the amount of [REDACTED] per month. The Claimant's son, [REDACTED] receives RSDI in the amount of \$ [REDACTED] Exhibits 3 and 4
4. The Claimant's child, [REDACTED] no longer resides with the Claimant. The Claimant reported the change to the Department. Claimant receives child support for [REDACTED], her son. Exhibit 5

5. The Claimant timely requested a hearing on July 23, 2014, protesting the Department's reduction of her food assistance 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 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, the evidence produced by the Department at the hearing demonstrated that it calculated the Claimant's food assistance based upon unearned income of [REDACTED]. The Claimant receives RSDI in the amount of [REDACTED], and her son, [REDACTED], receives \$ [REDACTED] per month in RSDI, for a total of [REDACTED]. Exhibits 3 and 4. The Claimant confirmed these amounts as correct, and also confirmed at the hearing that her FAP group consists of five members. The Department used the correct rent amount of [REDACTED] and the Claimant was also given a utility allowance.

The Claimant credibly testified that her child, [REDACTED], no longer resides with her, and that the Claimant advised the Department that the child no longer resided with her and was no longer living in her household. The Department did not dispute this testimony. At the hearing, the Department could not explain the difference between the unearned income of [REDACTED] as used to calculate the food assistance budget, and the [REDACTED] of unearned income that could be accounted for and was demonstrated at the hearing. Although, some child support is received by the Claimant for her son, [REDACTED] this does not account for the large discrepancy, nor could the Department explain the discrepancy. The child support received by the Claimant for [REDACTED] for the three-month period prior to the budget, was reported as [REDACTED] for the month of June; [REDACTED] for the month of July; and no child support received in August. The Department could not confirm what, if any of these amounts were used, nor did it explain whether the monthly amounts of child support were properly averaged as required by Department policy found in BEM 505.

BEM 505 provides that the Department must use the average of child support payments received in the past three calendar months unless changes are expected. The Department is to include the current month, if all payments expected for the month had

been received. Amounts which were unusual and not expected to continue are not to be included. BEM 505, pp 3, 4, (7/1/14).

Therefore, based upon the evidence presented, the Department did not demonstrate the basis for determining the unearned income amount used to calculate the food assistance benefits and, therefore, the budget as presented is determined to be incorrect.

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 the Claimant's food assistance budget and the unearned income amount.

DECISION AND ORDER

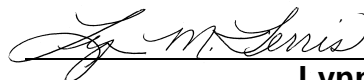
Accordingly, the Department's decision is

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 Food Assistance benefits, beginning September 1, 2014 ongoing, determine the correct unearned income, and include the correct child support amount when recalculating the FAP benefits. The Department shall also remove, if not already removed, the child, [REDACTED] who no longer resides with the Claimant from the FAP group, and shall not include any child support income for this child when it recalculates the benefits beginning September 1, 2014.

2. The Department shall issue a supplement to the Claimant for any food assistance 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: **9/8/2014**

Date Mailed: **9/9/2014**

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:

