

**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.: 2014 26324
Issue No(s): 3008
Case No.: ██████████
Hearing Date: March 6, 2014
County: Wayne (57)

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 March 6, 2014 from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ES, and ██████████ ██████████ Assistance Payments Supervisor.

ISSUE

Did the Department properly process a change in Claimant's earned income after Claimant reported to the Department that it was using the incorrect 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 reported in October 2013 that the Department was using the incorrect income and the income it was using was too high when calculating the Claimant's FAP benefits. The Claimant completed a redetermination in August 2013 and provided check stubs at the time.
2. The Claimant also advised the Department of a change regarding the Claimant's son's SSI payment in November 2013. The Department did recall that before the case was transferred to another District that pay stubs were provided by the Claimant.

3. Historic information in the case file did not substantiate receipt of \$1964 in earned income.
4. The income amount was corrected in December 2013 but the months of July 2013, August 2013, September 2013, October 2013, and November 2013 were not corrected
5. The Claimant requested a hearing received on February 3, 2014 protesting the failure of the Department to correct the earned income amount.

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.

Additionally, in this case the Department confirmed and agreed that check stubs were provided at the redetermination in August 2013 but were not in the case file. The Claimant credibly testified that she provided check stubs with the redetermination and that she also advised the Department that the earned income as calculated by the Department was incorrect and believed the discrepancy would be corrected. The discrepancy was not corrected until December 2013. No correction was made until December 2013, and since July 2013 the Department has utilized \$1964, an amount at least \$1,000 over the amount of earned income received by the Claimant. The pay stubs received with the redetermination would have been for July 2013 when the mistake was made. The Claimant works hourly and has consistently received \$228 weekly with some fluctuation. The Claimant attempted on numerous occasions to determine what income the Department was using and relied on the Department's statement that the income would be fixed. Based upon these facts the Department did not properly process the redetermination or provide any basis for the earned income amount of \$1964 and thus must correct the error made at the redetermination. BEM 505 (7/1/13).

The Claimant credibly testified that she sought to have the income corrected on several occasions and was assured the problem would be corrected, and relied to her detriment on the Department's indication that the problem would be corrected. Therefore, the Claimant's hearing request in that regard is deemed not untimely under these

circumstances. The case file was also transferred to another District which added to the timeliness of the correction.

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 earned income beginning in July 2013 to be \$1964 ongoing and did not timely process a change in income when it was made aware to the discrepancy after the redetermination.

failed to satisfy its burden of showing that it acted in accordance with Department policy when it was unable to demonstrate the basis for its determination that the Claimant's earned income was \$1964.

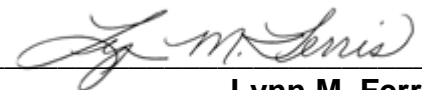
DECISION AND ORDER

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 benefits beginning July 2013 through November 2013 using actual earned income amounts which shall be provided by the Claimant.
2. The Department shall request verification from the Claimant through her employer of earned income for July 2013 through November 2013.
3. The Department shall issue FAP supplements to the Claimant for FAP benefits she 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: March 13, 2014

Date Mailed: March 13, 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

LMF/cl

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]