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

#### IN THE MATTER OF:

Reg. No.: 15-000624 Issue No.: 3008

Case No.:

Hearing Date: February 12, 2015

County: Oakland (03-Southfield)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

#### **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 February 12, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included

### **ISSUE**

Did the Department properly calculate Claimant's 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. On November 20, 2014, Claimant applied for FAP benefits.
- 2. On December 3, 2014, the Department sent Claimant a notice of case action informing her that her FAP application had been approved in the amount of \$16 per month.
- 3. On January 7, 2015, Claimant requested a hearing to protest the amount of her FAP 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.

At the hearing, Claimant testified that, on December 22, 2014, she provided the Department with documentation of income, rent expense, and decreased child support. In addition, Claimant further argued that her income fluctuated from month to month. BEM 505 (July 2014).

Department policy defines fluctuating income as "income received on a regular schedule but that varies from check to check, such as a waitress' income whose hours vary each week." BEM 505, p.1.

Here, because Claimant's income fluctuates from month to month, the Department's calculation of Claimant's income should be based on the policies which are found in BEM 505.

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
acted in accordance with Department policy when it
did not act in accordance with Department policy when it failed to use prospective budgeting in calculating Claimant's income.
failed to satisfy its burden of showing that it acted in accordance with Department policy when it

## **DECISION AND ORDER**

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AFFIRMED.	
REVERSED.	
☐ AFFIRMED IN PART with respect to	and REVERSED IN PART with respect to

Accordingly, the Department's decision is

- ☑ 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. Recalculate Claimant's income from January 1, 2015, ongoing and accept documentation from Claimant in order to perform prospective budgeting.

Administrative Law Judge for Nick Lyon, Interim Director Department of Human Services

Date Signed: 2/25/2015

Date Mailed: 2/25/2015

MJB / pf

**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 48909-8139

