

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

**IN THE MATTER OF:**

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

Reg. No.: 15-004576  
Issue No.: 3008  
Case No.: ██████████  
Hearing Date: April 27, 2015  
County: WAYNE-DISTRICT 55  
(HAMTRAMCK)

**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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 27, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. ██████████ also appeared as an interpreter for the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████.

**ISSUE**

Did the Department properly calculate the Claimant's Food Assistance (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. The Department issued a Notice of Case Action on March 2, 2015 and reduced the Claimant's FAP benefits to \$189. The reason given for the reduction was due to either a change in income or housing expense has changed. Exhibit C.
2. The Claimant lost his employment and was requested to complete an employment verification which was not completed and returned to the Department as requested. Exhibit B
3. The Claimant's wife, ██████████, was also employed during the period. The Department used the following four checks to compute the gross earned income, beginning pay date January 28, 2015 and end pay date February 18, 2015: \$261.62; 254.28; \$251.02 and \$166.26. These pay checks total \$933.18. The Claimant's wife is paid weekly. Exhibit A.

4. The Department also included \$1301.44 in earned income for [REDACTED], (Claimant) and \$944.81 for [REDACTED]. Exhibit A1.
5. The Department used rent of \$400 and also included a utility allowance of \$553 for heat and electric service.
6. The Claimant requested a hearing on March 16, 2015 advising the Department that the income for [REDACTED], Claimant's wife, was not correct.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, the Claimant sought a review of his FAP benefit allotment as he believed the Department had improperly calculated the amount of his FAP benefits when calculating his wife's earned income. The Department must look at the last thirty days when calculating benefits. The Claimant's wife is paid weekly and the total earned income substantiated by her pay checks was \$933.18, (paragraph 3 of the Findings of Fact).

The average weekly income is determined by, the sum of the four checks divided by four. The average weekly income is \$233.29. ( $\$933.18 \div 4 = \$233.29$ ). BEM 505 (July 1, 2014) p. 6-7.

To determine net income for Claimant's wife, the average weekly check of \$233.29 is then multiplied by 4.3 because Claimant is paid weekly. The Claimant's wife's gross earned income is \$1003. ( $\$233.29 \times 4.3 = \$1003$ ). The Department also included the Claimant's earned income of \$1301.44.

The Department correctly included Claimant's income because he never returned a verification of employment from his employer showing stopped employment demonstrating to the Department he was no longer working. Department policy requires that Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the

first payment reflecting the change. Because no verification was returned the income was properly included. BEM 505 p. 9-10; BAM 105, p.11 (4/1/15).

After reviewing the FAP budget for March 2015, the net earned income determined by the Department is incorrect. The Department did not calculate gross earned income for the FAP group correctly. Adding together Claimant's gross earned income of \$1301.44 and Claimant's wife's income of \$1003.00 these two incomes total \$2304 and the Department used \$2284. Exhibit D. Thus the Department must recalculate the FAP benefits for February 2015 and March 2015 to determine the correct amount of FAP benefits. It is likely because the income is higher, that the FAP benefits may be reduced.

As stated at the hearing, the Claimant must have his former employer complete a verification of employment so that the Department can remove his earnings from the FAP budget, which will reduce the amount of the FAP group's income and increase the FAP benefits because the \$1301 will no longer be counted.

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 included the Claimant's income even though he was no longer working.

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 wife's income.

### **DECISION AND ORDER**

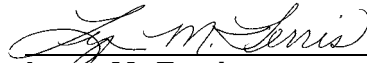
Accordingly, the Department's decision is

**AFFIRMED IN PART** with respect to the Department's including the Claimant's earned income even though he was no longer employed due to Claimant's failure to return the verification of employment to confirm that he was no longer employed; and **REVERSED IN PART** with respect to the Department's calculation of earned income for Claimant's wife, [REDACTED].

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 budget for January and February and recompute [REDACTED] earned income.

2. The Department shall issue a FAP supplement if any is due in accordance with Department policy.



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**Lynn M. Ferris**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **5/5/2015**

Date Mailed: **5/5/2015**

LMF / 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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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

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