

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

IN THE MATTER OF:

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Reg. No.: 15-006886
Issue No.: 3008
Case No.: ██████████
Hearing Date: June 04, 2015
County: WAYNE-DISTRICT 17
(GREENFIELD/JOY)

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 June 4, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████ Eligibility Specialist.

ISSUE

Did the Department properly calculate and reduce the Claimant's Food Assistance (FAP)?

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's FAP benefits were reduced by the Department after completion of redetermination. The Claimant was an ongoing recipient of FAP benefits. The Claimant has a FAP group of 6 persons. The Claimant received SSI of \$733 and the Claimant's spouse and daughter have earned income. The earned income calculated by the Department when preparing the Claimant's FAP budget was \$2144.
2. There was no dispute regarding the Claimant's spouse's income based upon pay stubs provided with the redetermination. The Department used 4 pay stubs provided with the redetermination: \$295, \$245, \$290 and \$240. These pay stubs total \$1070. The Claimant's husband is paid weekly. The total gross income based

upon these check for FAP purposes after the FAP formula is applied is \$1150 in monthly gross income.

3. The Department used two pay stubs, in the amount of \$456.80 plus another check in the amount of \$456.42, for the Claimant's daughter's earned income. The Claimant's daughter is paid bi-weekly. These pay stubs total \$981.16 after the proper formulas to calculate FAP income are applied.
4. The total gross earned income is \$2131.69. The difference between the earned income used by the Department and the correct earned income is \$12.
5. The Claimant's housing expenses have changed as the Claimant no longer pays on a land contract of \$500; however, does incur property taxes and insurance and was given the utility allowance of \$553 as she pays for heat. The housing costs have gone down as the land contract payment is no longer included.
6. The Department's hearing summary was inadequate and did not address the hearing request.
7. The Department completed a redetermination and recalculated the FAP benefits.
8. The Claimant requested a hearing on April 17, 2015 requesting an explanation of the reduction in the amount of her Food Benefits.

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's FAP budget was reviewed which was completed by the Department after the redetermination in April 2015. The food stamp benefits decreased from \$347 to \$253 per month. The Claimant requested an explanation as to why the FAP benefits were reduced. A review of the FAP budget found an error in the earned income computation by the Department. The Claimant's spouse's income is \$1150. The Claimant's daughter's income, who is a group member, was \$981.69. The

Claimant's daughter's income fluctuates. The Department calculated the gross income to be \$2144 instead of \$2132 a difference of \$12 dollars. This discrepancy was not explained by the Department.

Department policies are found in BEM 505 require that the average weekly or biweekly check be determined by adding the checks together and dividing by number of checks. Once this amount is determined it is either multiplied by 2.15, if the checks are earned weekly, or 4.3 if the checks are earned biweekly. Applying this formula is the appropriate way to determine gross earned income. BEM 505 (January 1, 2014) p. 1. Thereafter, 80% of the total income is used in calculating total group earned income. The adjusted earned income and unearned income is added together to get the total gross income. The Claimant received SSI in the amount of \$733 and has no medical expenses.

The Claimant also had previously received a housing expense in the amount of which included \$500 for a land contract payment which is no longer an expense, as the land contract has been paid off. The land contract expense is no longer credited as a housing expense. The taxes and insurance are still included as part of housing expenses. A reduction in the housing expense also caused the FAP benefits to be decreased as there was less housing expense, which caused a reduction in the group income.

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 earned income when it calculated the Claimant's earned income.

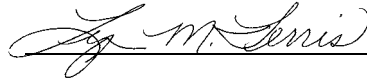
DECISION AND ORDER

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 is required to recalculate the Claimant's FAP budget and correct the error in calculating the earned income to determine the correct FAP benefit amount and whether the reduced income causes any change to the FAP benefit amount.
2. Once the Department recalculates the Claimant's Food Assistance budget, the Department shall notify the Claimant of the new benefit amount, if any, and shall

issue a supplement in accordance with Department policy if any such supplement is due.



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

Date Signed: **6/12/2015**

Date Mailed: **6/12/2015**

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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]
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