

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-010535
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: August 5, 2015
County: Gratiot

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 August 5, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Did the Department properly determine 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. Claimant was a recipient of FAP benefits.
2. Claimant submitted wage information on May 18, 2015.
3. Based on the wage information the Department determined that Claimant was entitled to \$ [REDACTED] in FAP benefits for the month on June 2015.
4. Claimant requested hearing on June 15, 2015, contesting the amount of his FAP 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, Claimant questioned the Department's budgeting of his May 2015 employment income. Claimant provided one pay stub, and information was received from his employer. The information was incomplete, but this Administrative Law Judge based the following calculation on the information provided. It should be noted that Claimant's June benefits included an excess shelter deduction that was given to him in error.

The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. BEM 550. Under 7 CFR 273.9, as amended, \$154.00 is deducted from the gross income of FAP recipients in determining FAP grants.

In the present case, according to the aforementioned policy on budgeting, Claimant had \$ [REDACTED] gross earned employment income for the month of May 2015. He received gross income of \$ [REDACTED] on May 15, net income of \$ [REDACTED] on May 22, and net income of \$ [REDACTED] on May 29. After the 20 percent earned income deduction, Claimant had Post Earned Income Deduction Income of \$ [REDACTED]. Subtracting \$ [REDACTED] from \$ [REDACTED] results with \$ [REDACTED] adjusted gross income. Claimant did not qualify for an excess shelter deduction because he was homeless and not paying rent. Subtracting \$ [REDACTED] from \$ [REDACTED] results with \$ [REDACTED] net income. A household of one with a net monthly income of \$ [REDACTED] is entitled to a monthly FAP grant of \$ [REDACTED] per month. RFT 260. Therefore the Department's determination of benefits was incorrect, but the error was in Claimant's favor. Since the overissuance was Department error and was less than \$250.00, no recoupment is required. BAM 705

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 determined Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Aaron McClintic
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **8/10/2015**

AM/jaf

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:

