

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-011016
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: August 05, 2015
County: WAYNE-DISTRICT 35

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 August 5, 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 [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly reduce the Claimant's Food Assistance?

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 is an ongoing recipient of Food Assistance (FAP) benefits.
2. The Department reduced the Claimants benefits to \$161, effective [REDACTED].
Exhibit I
3. The Claimant receives RSDI in the amount of \$902 monthly. The Claimant's son is under the age of 22 and lives with the Claimant. The Claimant's FAP group consists of 2 members. The Claimant's son's RSDI ended and was not included in the current FAP budget. The Claimant son is also employed part time and is paid \$8.15 per hour and is paid biweekly. The Claimant also receives child support. The Claimant pays rent in the amount of \$827 monthly and pays heat and electricity. The Claimant is also disabled and is thus considered a SDV FAP group. Exhibits A, A1, B, G, G, H and J

4. The Claimant requested a timely hearing on [REDACTED] protesting the Department's actions.

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 requested a hearing because the Department reduced his food assistance. The Claimant's FAP benefit budget and excess shelter deduction were reviewed in detail at the hearing. The FAP budget presented by the Department was correct, except for the calculation of the earned income used by the Department. The budgeted income was based upon income from May 2015, which included two pays for May in the amount of \$201.32 (plus tips of \$11.85) and \$ 156.56 (and tips of \$9.41). Exhibit A1. The Department determined the gross pay to be \$425 (Exhibit G). Based upon these pay amounts the gross income should be \$407. The pays are added together and divided by 2 to get average biweekly pay and then multiplied by 2.15; $(\$201.32 + \$11.85 + \$156.56 + \$9.41 = \$379.14 \div 2 = \$189.57 \times 2.15 = \$407)$. BEM 505 (July 1, 2015), p. 5-6. Based upon the use of incorrect earned income, the FAP budget must be recalculated. The earned income error effects the earned income deduction, which is now \$82.00 and the excess shelter deduction calculation because the adjusted gross income will also change.

The Claimant does receive child support, and based upon the child support information provided, the Department used \$268.74 when calculating unearned income (Exhibits J and F). Department policy requires that the Department use a 3 month average. BEM 503 (July 1, 2015) p. 6 and BEM 505 p. 4. The Department correctly used the last two months of child support received for May and June 2015, as April 2015 was a large variation in the amount of child support (\$457). Based upon Department policy, the Department correctly determined the Claimant's unearned income for child support. Should the child support payments for arrearages cease, the Claimant should report this change so the FAP benefits can be adjusted due to the change in unearned income. As was also mentioned at the hearing, if the Claimant's son's earnings from employment

have been reduced, the Claimant should report the new earnings so the FAP benefits may be recalculated to reflect income reduction.

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 son's earned income and thus must recalculate the FAP benefits.

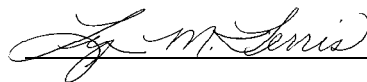
DECISION AND ORDER

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 FAP budget, the FAP group's earned income amount and the earned income deduction, and shall redetermine the correct FAP benefit amount.
2. The Department shall issue a FAP supplement if any in accordance with Department policy.



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

Date Signed: **8/5/2015**

Date Mailed: **8/5/2015**

LMF / hw

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:

