

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

IN THE MATTER OF:

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Reg. No.: 15-003285
Issue No.: 3008
Case No.: ██████████
Hearing Date: April 06, 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. After due notice, a telephone hearing was held on April 6, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, ES.

ISSUE

Did the Department properly calculate the Claimant's Food Assistance 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 Claimant applied for Food Assistance benefits (FAP) on January 26, 2015 and was approved for \$16 a month. Exhibit 1
2. The Claimant pays rent of \$50, no utilities and was credited for a phone allowance of \$34 as part of his shelter expense. Exhibit 4
3. The Department used pay stubs provided by the Claimant to calculate the earned income which it calculated to be \$1049. Exhibit 3.
4. The Claimant's weekly income used by the Department to calculate the FAP benefits based upon pay stubs information was \$304.50, on January 22, 2015; \$189 on January 15, 2015; \$189 on January 8, 2015 and \$294 on January 28, 2015. These earnings totaled \$976. Exhibit 5
5. The Department issued a Notice of Case Action on February 17, 2015 approving the Claimant's application for FAP benefits in the amount of \$16. Exhibit 1

6. The Claimant requested a hearing on March 2, 2015 protesting the correctness of the FAP allotment.

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.

Additionally, during the hearing the Department presented the information that it relied on in calculating the Claimant's FAP benefits which was confirmed by Claimant. The Claimant pays rent of \$50 and pays for a phone. The Claimant pays no heating expense and does not pay any other utilities. The Claimant's income was verified by pay information reviewed at the hearing. The Claimant is paid weekly. Based upon the gross earned income presented at the hearing the Department's determination that the earned income was \$1049 was incorrect. The gross income total was established by four checks received in January 2015. These checks total \$1013. The Department could not explain the discrepancy. (See Finding of Fact paragraph 4).

To determine the gross monthly income the gross pays are added together, in this instance the gross pay totals \$976.50. This total is divided by the number of weeks (4) to get the average weekly pay which is \$244. The average weekly pay is then multiplied by 4.15 and totals \$1013. BEM 505 p. 6-7. This income is then reduced by 20% of the total due to an earned income reduction which in this case is a \$202 reduction. The gross income is also reduced by a standard deduction of \$154 for a FAP group with one member. RFT 255. When both these deductions are made the result is the adjusted gross income. The Department used the correct standard deduction amount of \$154, but because the earned income as calculated by the Department was incorrect, the earned income reduction amount (20%) is different than calculated in the Department's FAP budget. Based upon the gross income used by the Department to calculate FAP benefits, the budget submitted is incorrect and must be recalculated to correct the earned income amount.

Due to recent changes in the heat and utility standard policy, many FAP recipients such as Claimant who do not pay utility expenses (heating) have experienced a FAP reduction as they are no longer automatically given a heat and utility expense of \$553 due to a change in Department policy effective May 1, 2014. BEM 554 p. 14-15. The real effect of this change has reduced FAP benefits received by those individuals like

the Claimant with no heating bill because their overall net income is no longer reduced by this heating utility expense. Previous policy required that all FAP applicants/recipients received the heat and utility allowance which resulted in an automatic shelter expense regardless of whether they paid for heating. With the elimination of the Heat and Utility Standard automatic expense, FAP applicants like the Claimant no longer get to include in their shelter expenses the heat standard of \$553 irrespective of whether they pay a heating bill. In Claimant's case his utility allowance was \$50 rent and \$34 telephone for a total of \$84; prior to the policy change the utility allowance would have also been added as a shelter cost in the amount of \$553, which would have increased the total housing shelter expenses by \$553 which would have lowered the net income used to determine the amount of FAP benefits the Claimant would have received. Generally speaking, the lower the net income the higher the FAP benefit amount. Based upon the evidence presented the Department correctly calculated the shelter expenses to be \$84 and correctly did not include the heating allowance amount.

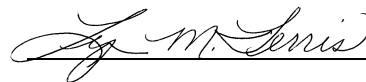
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it calculated the Claimant's gross income and thus the FAP benefits are not correctly calculated.

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 Claimant's FAP benefits in accordance with this Decision and redetermine the FAP benefit amount.
2. The Department shall issue the Claimant a FAP benefit supplement he is otherwise entitled to receive, if any, in accordance with Department policy.



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

Date Signed: **4/10/2015**

Date Mailed: **4/10/2015**

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 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

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