

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201331574
Issue No: 3015
Case No: [REDACTED]
Hearing Date: March 27, 2013
Monroe County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on February 19, 2013. After due notice, a telephone hearing was held on March 27, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], an eligibility specialist with department's Monroe County office.

ISSUE

Whether the department properly determined Claimant's Food Assistance Program (FAP) eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On February 12, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing her that her FAP benefits had been closed effective March 1, 2013 for the reason that her income exceeded the limit of the program. (Department Exhibits A-D)
2. On February 18, 2013, Claimant submitted a hearing request protesting the department's closure of her FAP benefits. (Department Exhibit E)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affective eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the

appropriateness of that decision. BAM 600. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1)

The Food Assistance Program (FAP) was established pursuant to the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The department administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015. Department policies for the program are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

In general, persons who live together and purchase and prepare food together are members of the same FAP eligibility determination group. BEM 212, p 5. Moreover, parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. Children include natural, step and adopted children. BEM 212, p 1.

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the department multiplies the average weekly amount by 4.3. If the client is paid every other week, the department multiplies the average bi-weekly amount by 2.15. BEM 505.

In this case, Claimant's hearing request challenges the department's determination that Claimant's FAP group's monthly income exceeds the limit for the FAP program, resulting in the closure of Claimant's FAP benefits for the benefit period beginning March 1, 2013.

At the March 27, 2013 hearing, the department's representative acknowledged that she could not explain the specific basis for the department's determination that Claimant was only entitled to an excess shelter deduction in the amount of [REDACTED] for the benefit period effective March 1, 2013 when she had previously been entitled to an excess shelter deduction in the amount of \$ [REDACTED]. Moreover, while the department did provide a copy of the FAP-EDG Net Income Results for the FAP benefit period effective March 1, 2013 (Department Exhibit D), the department failed to provide a copy of the FAP Excess Shelter Deduction worksheet for the same benefit period.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

Absent the department's ability to explain the basis for the department's calculations in determining Claimant's excess shelter deduction amount, this Administrative Law Judge is unable to decide whether the department acted in accordance with policy in closing Claimant's FAP benefits for the benefit period beginning March 1, 2013.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, is unable to decide whether the department acted in accordance with policy in determining Claimant's FAP eligibility for the benefit period effective March 1, 2013. Therefore, the department's determination in this regard are **REVERSED** and the department shall immediately re-determine Claimant's eligibility for FAP benefits effective March 1, 2013 and issue any supplemental checks if she is otherwise entitled to them.

It is **SO ORDERED**.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 27, 2013

Date Mailed: March 28, 2013

NOTICE: Michigan Administrative Hearings System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Order. MAHS will not order a rehearing or reconsideration on

the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal this Order to Circuit Court within 30 days of the receipt of the Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - Misapplication of manual policy or law in the hearing decision,
 - Typographical errors, mathematical errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative Hearings System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/cr

cc:

