

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████

Reg. No.: 2013-53807
Issue No.: 3015
Case No.: ██████████
Hearing Date: July 18, 2013
County: Wayne (82-35)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on July 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Due to excess income, did the Department properly deny the Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

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 an ongoing recipient of FAP benefits.
2. On June 8, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective July 1, 2013, ongoing, due to her gross income exceeding the limits. Exhibit 1.
3. On June 19, 2013, Claimant filed a hearing request, protesting the Department's actions. Exhibit 1.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by 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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Rule 400.3001 through Rule 400.3015.

In this case, Claimant was an ongoing recipient of FAP benefits. On June 8, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective July 1, 2013, ongoing, due to her gross income exceeding the limits. Exhibit 1.

Retirement, Survivors and Disability Insurance (RSDI) is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. The Department counts the gross benefit amount as unearned income. BEM 503 (May 2013), pp. 21 and 22. Other retirement income includes annuities, private pensions, military pensions, and State and local government pensions. BEM 503, p. 20. The Department counts the gross benefit for the other retirement incomes as unearned income. BEM 503, p. 20.

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 550 (February 2012), p. 1. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550, p. 1. The Department uses only available, countable income to determine eligibility. The Department always calculates the income on a calendar month basis to determine eligibility and benefit amounts. BEM 550, p. 1. The Department uses income from a month specified in this item for the benefit month being considered. BEM 550, p. 1. RFT 250 states that a group size one monthly gross income limit is \$1,211. RFT 250 (October 2012), p. 1.

At the hearing, the Department testified that Claimant's monthly gross income was \$1,952. The Department calculated this amount by taking Claimant's gross RSDI amount of \$1,562 and adding Claimant's gross monthly pension of \$390.53. See Exhibit 1. This results in a gross unearned income of \$1,952. Claimant did not dispute these amounts or calculations. Thus, the Department testified that his income exceeded the \$1,211 gross income limit. RFT 250, p. 1.

It should be noted that Claimant is disabled. The Department did not dispute this. A review of Department policy indicates that the Department improperly processed Claimant's FAP benefits. RFT 250, Column A, Monthly Gross Income Limit, which the Department applied to Claimant's case, is supposed to be only used for FAP groups

with *no S/D/V* members. See RFT 250, p. 1; (emphasis added). Moreover, a non-categorically eligible SDV FAP group must have income below the *net income limits*. BEM 550, p. 1 (emphasis added). The Department denied Claimant based on her gross income limit. The Department applied the incorrect RFT 250 column. If Claimant was denied, it had to be based on her net income limits. See RFT 250, p. 1.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP benefits effective July 1, 2013, ongoing, in accordance with Department policy. The Department is required to determine Claimant's FAP eligibility based on her net income due to her being an S/D/V member. See RFT 250, p. 1; and BEM 550, p. 1.


DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's FAP case as of July 1, 2013, ongoing;
2. Begin recalculating the FAP budget for July 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from July 1, 2013, ongoing; and
4. Notify Claimant of its decision in writing in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 26, 2013

Date Mailed: July 26, 2013

NOTICE: Michigan Administrative Hearing 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 Decision and Order. MAHS will not order a rehearing or

reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and 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 error, or other obvious errors in the hearing decision that affect the substantial rights of the claimant,
 - 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
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

EJF/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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