

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-56518
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: August 5, 2013
County: Oakland (63-03)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 August 5, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case because her gross income exceeded the applicable gross income limit for her group?

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, with herself as her sole FAP group member.
2. In a Semi-Annual Contact Report submitted to the Department on May 1, 2013, Claimant indicated that [REDACTED] was living with her, who she identified as "spouse."
3. The Department recalculated Claimant's FAP budget to include [REDACTED] in her group and increased her FAP benefits effective July 1, 2013, based on the increased group size.

4. On June 10, 2013, after receiving a new hire match showing that [REDACTED] had started new employment, the Department sent Claimant a New Hire Client Notice requesting that [REDACTED] complete and return the form.
5. Based on this employment income indicated on the returned New Hire Client Notice, the Department recalculated Claimant's group's FAP eligibility.
6. On June 21, 2013, the Department sent Claimant a Notice of Case Action closing her FAP case effective August 1, 2013, because her group's gross income exceeded the applicable gross income limit.
7. On July 1, 2013, Claimant filed a request for hearing, disputing the Department's actions.

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), and Department of Human Services 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 Code, R 400.3001 through R 400.3015.

Additionally, in this case, Claimant stated in the Semi-Annual Contact Report that she submitted to the Department on May 22, 2013, that [REDACTED] had moved in with her on March 1, 2013, and she identified him as her spouse. She also indicated that [REDACTED] bought, fixed and ate food with the household. Spouses who are legally married and live together must be in the same group. BEM 212 (November 2012), p. 1. Furthermore, individuals who live together and purchase and prepare food together are members of the same FAP group. BEM 212, p. 5. Thus, the Department acted in accordance with Department policy when it added [REDACTED] to Claimant's FAP group.

Because [REDACTED] was in Claimant's FAP group, his income was properly considered in calculating Claimant's FAP eligibility. See BEM 550 (February 2012), p. 1; BEM 556 (July 2011), p. 2. In this case, the Department recalculated Claimant's FAP budget after receiving a completed New Client Hire Notice with [REDACTED] employment income. Based on this income information, the Department sent Claimant a June 21, 2013, Notice of Case Action informing her that, effective August 1, 2013, her FAP case would close because her FAP group's gross income exceeded the gross income limit.

However, on July 1, 2013, Claimant submitted a request for hearing and in her request she notified the Department that [REDACTED] was moving out of her home on July 1,

2013. See BAM 105 (March 2013), p. 7. The Department must act on a reported change within 10 days of becoming aware of the change, and changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the change was reported, provided any necessary verification was returned by the due date. BAM 220 (July 2013), pp. 5-6. Because Claimant's FAP case was open at the time the Department received Claimant's reported change that [REDACTED] was moving out of the household, it was required to process the change to affect the August 1, 2013, ongoing benefits. The Department did not act in accordance with Department policy when it closed Claimant's FAP case without processing her reported change.

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 not act in accordance with Department policy when it closed Claimant's FAP case without processing the reported change.

Accordingly, the Department's decision is REVERSED.

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 effective August 1, 2013;
2. Begin recalculating Claimant's FAP eligibility for August 1, 2013, ongoing in accordance with Department policy and consistent with this Hearing Decision based on Claimant's reported change;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from August 1, 2013, ongoing; and
4. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 15, 2013

Date Mailed: August 15, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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 48909-07322

ACE/pf

cc:

