

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-59573
Issue Nos.: 3014, 3015
Case No.: [REDACTED]
Hearing Date: August 21, 2013
County: Wayne (82-35)

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 21, 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 deny Claimant's June 3, 2013, Food Assistance Program (FAP) application?

FINDINGS OF FACT

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

1. On June 3, 2013, Claimant applied for FAP.
2. At the time of his application, Claimant had legal guardianship of his granddaughter, and she lived with him.
3. On June 15, 2013, the Department denied Claimant's MA application on the basis that his gross income exceeded the applicable gross income limit.
4. On July 22, 2013, Claimant filed a request for hearing disputing the Department's actions.

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 Code, R 400.3001 through R 400.3015.

Additionally, the Department denied Claimant's FAP application in a June 15, 2013, Notice of Case Action, finding that his household's gross income exceeded the applicable gross income limit. At the hearing, the Department explained that Claimant is a mandatory FAP group member and his gross income, which must be considered in determining his household's FAP eligibility, made the group ineligible for FAP benefits.

A caretaker is a related or unrelated person who provides care or supervision to a child under 18 who lives with the caretaker but is not a natural, step or adopted child. BEM 212 (November 2012), p. 1. Department policy provides that a caretaker and the child for whom he acts as a parent and who lives with him must be in the same FAP group. BEM 212, p. 1.

In this case, Claimant testified that he was his 6-year-old granddaughter's legal guardian and that she lived with him in his home. Because Claimant is the child's caretaker, he and the child must be included in the same FAP group. Therefore, the Department acted in accordance with Department policy when it concluded that Claimant's FAP group size was two.

At the hearing, Claimant verified that neither he nor his granddaughter were Senior/Disabled/Disabled Veteran (SDV) individuals. FAP groups with no SDV members must have income below the gross and net income limits. BEM 550 (February 2012), p. 1. In this case, the Department concluded that Claimant failed the gross income test. The gross income limit for a FAP group size of two is \$2,522. RFT 250 (October 2012), p. 1, column D (the limit applicable to enhanced domestic violence authorization); BEM 213 (October 2011), p. 1 (providing that all FAP applicants are eligible for enhanced authorization for domestic violence prevention services).

In this case, the Department testified that the only income considered in determining Claimant's FAP eligibility was his gross earned income. Because Claimant was an FAP group member, the Department was required to consider this income in determining the group's income eligibility. See BEM 505 (October 2010), p. 1.

The Department testified that it relied on the 1099 that Claimant had attached to his application to determine that, based on his annual 2012 gross earnings of \$37,115, Claimant had monthly gross income of \$3,482. Based on annual income of \$37,115,

monthly gross income is actually \$3,092, which is still greater than the \$2,522 monthly gross income limit. However, Department policy requires that the Department prospect a client's income for the current or future month using a best estimate of income expected to be received (or already received) during the month and requires the Department to consider a client's income for the 30 to 90 days preceding the application in prospecting income for FAP eligibility purposes. BEM 505 (October 2012), pp. 2-3, 5-6.

In this case, Claimant testified that his monthly income fluctuated considerably. Department policy requires that income be verified at application. BEM 505, p. 11. While verification is not required when the client is clearly ineligible [BAM 130 (May 2012), p. 1], there was no evidence to establish that Claimant's income over the course of 2012 was reflective of the income he was receiving or expected to receive at the time of his June 3, 2013, FAP application. Therefore, the Department did not act in accordance with Department policy when it relied on 2012 income information to prospect Claimant's gross income.

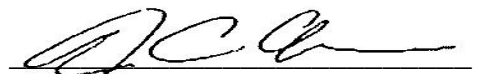
DECISION AND ORDER

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 denied Claimant's June 3, 2013, FAP application.

Accordingly, the Department's FAP 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. Reregister Claimant's June 3, 2013, FAP application;
2. Begin reprocessing the application in accordance with Department policy and consistent with this Hearing Decision, including sending Claimant Verification Checklists requesting verification of employment income;
3. Issue supplements to Claimant for FAP benefits he was eligible to receive but did not, if any, from June 3, 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 27, 2013

Date Mailed: August 27, 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:

