

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

IN THE MATTER OF:

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

Reg. No.: 2014-4443
Issue No(s): 3015
Case No.: ██████████
Hearing Date: November 12, 2013
County: SSPC-EAST (98)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 three way telephone hearing was held on November 12, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's wife, ██████████ ██████████ and Authorized Hearing Representative, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payment Supervisor and ██████████ Assistance Payment Worker. Ksenija Kivanzadeh, from Language Line served as interpreter..

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 applied for received:
 FIP FAP MA AMP SDA CDC
benefits.

2. On July 23, 2013, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to excess income.
3. On August 16, 2013, the Department sent Claimant/Claimant's Authorized Representative (AR) its decision.
4. On October 3, 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting 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 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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Additionally, the Department testified that Claimant's FAP application was denied on the basis that the net income exceeded the limit. At the hearing, the FAP EDG Net Income Results Budget was reviewed. (Exhibit 1, pp.24-26). The Department determined that Claimant had \$3,067 in unearned income from Retirement, Survivors, Disability Insurance (RSDI) and unemployment benefits.

The gross amount of money earned from RSDI is included in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2013), pp. 28. The Department testified and Claimant confirmed that her husband receives [REDACTED] in monthly RSDI benefits and that she receives \$ [REDACTED]0 in monthly RSDI benefits. The Department also presented an SOLQ in support of its testimony.

The Department testified that Claimant receives \$ [REDACTED] in unemployment benefits biweekly and that it prospectively budgeted the benefits by multiplying the average of the amount by the 2.15 standard multiplier to conclude that Claimant has \$683 in unearned income from unemployment. BEM 505 (July 2013), pp.6-8. Therefore, the Department properly calculated Claimant's unearned income of [REDACTED]7.

The budget shows that the Department properly applied the [REDACTED] standard deduction applicable to Claimant's confirmed group size of three; and that the [REDACTED]0 standard heat and utility deduction available to all FAP recipients was considered in calculating the excess shelter deduction. RFT 255 (October 2012), p 1; BEM 554 (July 2013), pp. 14-15. The Department determined that Claimant had housing costs in the amount of [REDACTED] which Claimant disputed. Claimant stated that on the application, she indicated that her home had a first mortgage of [REDACTED] and a second mortgage of [REDACTED]

The Department confirmed that this information was included on the application but relied on Claimant's statements during an interpreted interview to confirm that the correct housing costs were [REDACTED]. After further review, the Department did not properly calculate Claimant's housing costs.

Additionally, because Claimant's FAP group includes Senior/Disabled/Veteran (SDV) members, the group is eligible for a deduction for verified medical expenses incurred in excess of [REDACTED]. BEM 554, p 1. Claimant stated and the Department confirmed that [REDACTED] is deducted from both Claimant's and his wife's monthly RSDI benefits towards the costs of his insurance premium. A review of the budget establishes that the Department properly considered Claimant's medical expenses and determined that they had a medical deduction in the amount of [REDACTED].

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that because of the errors in the calculation of Claimant's housing costs, the Department did not act in accordance with Department policy when it denied Claimant's FAP application based on excess net income.

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. Register and process Claimant's July 23, 2013, FAP application;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from the date of application, ongoing; and
3. Notify Claimant of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 19, 2013

Date Mailed: November 19, 2013

NOTICE OF APPEAL: 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.

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).

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

ZB/tm

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