

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

IN THE MATTER OF:

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

Reg. No.: 2014-2919
Issue No(s): 3015
Case No.: ██████████
Hearing Date: November 6, 2013
County: Wayne (17)

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 telephone hearing was held on November 6, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her husband, ██████████. 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 applied for received:
 FIP FAP MA AMP SDA CDC benefits.
2. On October 1, 2013, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits

due to excess income.

3. On August 22, 2013, the Department sent Claimant Notice of its decision.
4. On September 24, 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.

On August 22, 2013, the Department sent Claimant a Notice of Case Action informing her that effective October 1, 2013, her FAP case would be closing on the basis that the group's gross income from self-employment of \$ [REDACTED] exceeded the income limit of \$5,072.00 for Claimant's confirmed group size of 10. (Exhibit 3). Claimant requested a hearing to dispute the closure.

FAP groups must have gross monthly income below the applicable gross income limit. BEM 550 (July 2013), p.1. Additionally, in calculating gross income from self-employment for FAP purposes, the Department will deduct the allowable expenses of producing the income from the total proceeds. BEM 502 (July 2013), p.3. Allowable expenses are the higher of (i) 25 percent of the total proceeds, or (ii) actual expenses, if the client chooses to claim and verify the expenses, up to the amount of the total proceeds. BEM 502, p 3.

At the hearing, the FAP Gross Income Test budget was reviewed. (Exhibit 4). The Department testified that relying on the Self-Employment Income and Expense Statements provided by Claimant, it determined that Claimant had countable income from self-employment in the amount of [REDACTED] after allowable expenses.(Exhibit 1). While the Department properly determined that Claimant had total proceeds of [REDACTED] [REDACTED]0 based on the verifications submitted, the Department remained unable to explain how it determined Claimant's allowable expenses or what figures were relied on.

Claimant testified that the [REDACTED] that was reported are his daily sales for the month and that from that amount, he has expenses of around [REDACTED] which include inventory purchases and utility payments. Claimant was informed that in order for those expenses to be applied, they must be accurately documented and submitted to the Department.

Although Claimant submitted verification of expenses, it remained unclear after further review of the evidence whether the Department used the actual expenses submitted by Claimant or took 25 percent of the total proceeds. Additionally, the Department applied an incorrect gross income limit in this case, which should be reviewed. RFT 250 (October 2013), p. 1.

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 the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP case based on excess gross income, as the Department could not explain how Claimant's earned income from self-employment was calculated.

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. Reinstate Claimant's FAP case effective October 1, 2013;
2. Recalculate Claimant's FAP budget from October 1, 2013 ongoing;
3. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from October 1, 2013 ongoing; and
4. Notify Claimant in writing of its decision.



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

Date Signed: November 12, 2013

Date Mailed: November 12, 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]