

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20144125
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: November 7, 2013
County: Kent

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 7, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's eligibility for the Food Assistance Program (FAP)?

FINDINGS OF FACT

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

1. The Claimant is an ongoing Food Assistance Program (FAP) as a group of one.
2. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of [REDACTED].
3. The Claimant has monthly shelter expenses of [REDACTED].
4. The Claimant's daughter is not a member of his benefit group.
5. The Department approved the Claimant for a monthly Food Assistance Program (FAP) allotment of [REDACTED].

6. The Department received the Claimant's request for a hearing on October 1, 2013, protesting the amount of Food Assistance Program (FAP) benefits.

CONCLUSIONS OF LAW

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.

When a child spends time with multiple caretakers who do not live together such as joint physical custody, parent/grandparent, etc., determine a primary caretaker. Only one person can be the primary caretaker and the other caretaker(s) is considered the absent care-taker(s). The child is always in the FAP group of the primary care-taker. If the child's parent(s) is living in the home, he/she must be included in the FAP group. If the child spends virtually half of the days in each month, averaged over a twelve-month period with each caretaker, the caretaker who applies and is found eligible first, is the primary caretaker. The other caretaker(s) is considered the absent caretaker(s). Department of Human Services Bridges Eligibility Manual (BEM) 212 (October 1, 2013), pp 3-4.

The Claimant testified that his daughter spends virtually half of each month, on average, under his care. The Claimant testified that his daughter spends the other half of each month with her mother, and that the mother was approved for Food Assistance Program (FAP) first.

Therefore, the Department was acting in accordance with policy when it determined the Claimant's eligibility for Food Assistance Program (FAP) benefits as a group of one.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2013).

The Claimant is an ongoing Food Assistance Program (FAP) recipient as a group of one. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of [REDACTED]. The Claimant has monthly shelter expenses of [REDACTED]. The Department pays the Claimant's part B Medicare copayment,

and the Claimant failed to establish that he reported any additional medical or dependent care expenses to the Department.

The Claimant's adjusted gross income of [REDACTED] was determined by subtracting the [REDACTED] standard deduction from his total monthly income. The Claimant's excess shelter deduction of [REDACTED] was determined by adding his [REDACTED] monthly shelter expense to the standard heat and utility deduction of [REDACTED], and subtracting 50% of his adjusted gross income. The Claimant's net income of [REDACTED] was determined by subtracting his excess shelter deduction from his adjusted gross income.

A Food Assistance Program (FAP) group of one with a net income of [REDACTED] is entitled to a monthly Food Assistance Program (FAP) allotment of [REDACTED], which was the amount granted by the Department as of October 1, 2013. Therefore, the Department has established that it properly determined the Claimant's eligibility for the Food Assistance Program (FAP).

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined the Claimant's eligibility for the Food Assistance Program (FAP).

Accordingly, the Department's decision is **AFFIRMED**.

/s/ _____
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 11/08/2013

Date Mailed: 11/12/2013

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

KS/sw

cc:

