

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 20144190  
Issue No.: [REDACTED]  
Case No.: [REDACTED]  
Hearing Date: November 13, 2013  
County: Macomb

**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 13, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

**ISSUE**

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

**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) recipient.
2. On September 25, 2013, the Claimant requested that the Department remove her son from her Food Assistance Program (FAP) benefit group.
3. On September 26, 2013, the Department reduced the Claimant's group size to 2, and notified her that she was approved for a reduced allotment of Food Assistance Program (FAP) benefits in the monthly amount of [REDACTED].
4. The Department received the Claimant's request for a hearing on October 3, 2013, protesting the amount of her Food Assistance Program (FAP) allotment.

### **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.

The Claimant was an ongoing Food Assistance Program (FAP) recipient. On September 25, 2013, the Claimant requested the Department remove her son from her Food Assistance Program (FAP) benefit group. The Department removed the Claimant's son from her FAP group. As a group of two, the Claimant's Food Assistance Program (FAP) benefits were reduced to \$134 per month. The Department notified the Claimant of this change on September 26, 2013.

The Claimant argued that the Department improperly determined her monthly countable income.

The Department's representative testified that the only change to the Claimant's benefit case was the change in group size, which was reduced at the Claimant's request.

The Department has the burden of establishing that it properly applied its policies to the Claimant's circumstances. Although it may have properly determined the Claimant's group size, this is not proof that it had properly determined the Claimant's countable income for previous months.

The Department failed to present sufficient evidence of the Claimant's continuing income, and failed to present evidence that it properly determined the Claimant's eligibility for the Food Assistance Program (FAP). Therefore, the Department's Food Assistance Program (FAP) eligibility determination is reversed.

### **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 failed to satisfy its burden of showing that it 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 **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. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of November 1, 2013.

2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

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

Date Signed: 11/18/2013

Date Mailed: 11/18/2013

**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

20144190/KS

KS/sw

cc:

