

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20147218
20144323
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: November 15, 2013
County: Delta

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 15, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED]. The Claimant submitted two hearing requests, and both of these requests were combined into one hearing and decision.

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 was an ongoing Food Assistance Program (FAP) recipient until November 1, 2013.
2. On September 14, 2013, the Department sent the Claimant notice that he was approved for Food Assistance Program (FAP) benefits in the monthly amount of [REDACTED].
3. On September 20, 2013, the Department sent the Claimant a Verification Checklist (DHS-3503) with a due date of September 30, 2013.

4. On October 1, 2013, the Department notified the Claimant that it would close his Food Assistance Program (FAP) benefits as of November 1, 2013, for failure to provide the Department with information necessary to determine his eligibility to receive benefits.
5. The Department received two hearing requests from the Claimant protesting the amount of his Food Assistance Program (FAP) benefits for October of 2013, and the closure of his Food Assistance Program (FAP) benefits as of November 1, 2013.

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.

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 before 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).

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (March 1, 2013), p 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Department of Human Services Bridges Assistance Manual (BAM) 130 (May 1, 2012), p 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

In this case, the Claimant was an ongoing Food Assistance Program (FAP) recipient when the Department notified him that his FAP benefits would be reduced to [REDACTED] as of October 1, 2013. The Claimant's income and countable expenses have not changes, and the Claimant did not dispute that the Department properly determined his income

and countable expenses. As of October 1, 2013, the standard heat and utility deduction was decreased, and this affected the Claimant's Food Assistance Program (FAP) allotment.

The Claimant argued that he is being discriminated against and that the Department failed to exercise its discretion to grant Food Assistance Program (FAP) benefits in consideration of his service to the community.

The authority of this Administrative Law Judge is limited to determining whether the Department has properly applied its policies to the Claimant's circumstances. Based on the evidence and testimony available during the hearing, the Department has established that it properly determined the Claimant's eligibility for the Food Assistance Program (FAP) as of October 1, 2013.

On September 20, 2013, the Department sent the Claimant a Verification Checklist (DHS-3503) with a due date of September 30, 2013. The Department had requested verification of a bank account held by the Claimant. When the Department did not receive the information it had requested, on October 1, 2013, the Department notified the Claimant that it would close his Food Assistance Program (FAP) benefits as of November 1, 2013, for failure to provide the Department with information necessary to determine his eligibility to receive benefits.

The Department has established that it properly closed the Claimant's Food Assistance Program (FAP) benefits.

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 reduced the Claimant's Food Assistance Program (FAP) benefits as of October 1, 2013.

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 closed the Claimant's Food Assistance Program (FAP) as of November 1, 2013, for failure to provide the Department with information necessary to determine his eligibility to receive benefits.

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

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

Date Signed: 11/18/2013

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

KS/sw

cc:

