

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

IN THE MATTER OF:

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

Reg. No.: 2014-12981
Issue No(s): 3001
Case No.: ██████████
Hearing Date: December 16, 2013
County: Wayne (19)

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 December 16, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her ██████████, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████ Family Independence Manager.

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. On October 31, 2013, Claimant submitted an application for FAP benefits for herself and her three children.
2. On October 31, 2013, the Department sent Claimant a Notice of Case Action informing her that her FAP application was denied on the basis that her income exceeded the limit. (Exhibit 2)
3. On November 18, 2013, Claimant submitted a hearing request disputing 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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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.

In this case, Claimant submitted a FAP application for herself and her children on October 31, 2013. The Department testified that a FAP telephone interview was conducted on October 31, 2013, during which Claimant informed the Department that her husband left her on October 1, 2013, but that he gives Claimant ██████ per month to pay her rent and ██████ for her and the children to live off of. The Department determined that Claimant's income exceeded the limit for FAP and sent Claimant a Notice of Case Action, denying the application.

At the hearing, Claimant confirmed that she had a telephone interview with her case worker and stated that her husband left her in September 2013. Claimant testified that prior to him leaving, he was paying the rent for the home in the amount of ██████ that the Department misunderstood her during the interview. Claimant stated that he is supposed to give her ██████ for living expenses but that he does not.

The Department presented the FAP EDG Net Income Results budget used to determine that Claimant had excess income. (Exhibit 3). A further review of the budget establishes that the Department included Claimant's husband as a group member for a group size of ██████ and that the Department determined that the group had earned income of ██████. The Department testified that it budgeted Claimant's husband's income as earned income for the group. While policy provides that spouses who are legally married and live together must be in the same FAP group; in this case, Claimant and her husband do not live together and had not lived together for at least one month prior to her application. BEM 212 (October 2013), p. 1. Because the income of a non-group member is to be excluded, the Department did not act in accordance with Department policy when it included Claimant's husband as a group member and applied his earned income to Claimant's FAP budget. See BEM 212. BEM 550 (July 2013), p.2.

The Department testified that Claimant's husband was considered a FAP group member because the family previously received FAP benefits and that Bridges must have used the prior information to determine that Claimant and her husband were still part of the same FAP group. Because Claimant did not include her husband on her FAP application and because the Department was aware that Claimant and her husband did not live together, the Department should have allowed Claimant the opportunity to

resolve the discrepancy between the information on Bridges and the information on her application to establish that her husband was not living in the home. BAM 130 (July 2013), p. 7.

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 did not act in accordance with Department policy when it denied Claimant's FAP application based on excess 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 October 31, 2013, FAP application;
2. Recalculate Claimant's FAP budget and issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from the application date, ongoing; and
3. Notify Claimant in writing of its decision.



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

Date Signed: December 18, 2013

Date Mailed: December 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

ZB/tm

cc| [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]