

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201319308
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: April 15, 2013
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on April 15, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], translator. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Supervisor.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case because her net income exceeded the applicable net income limit for her group?

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 was an ongoing recipient of FAP benefits, with a FAP group consisting of her son and herself.
2. On December 14, 2013, Claimant filed a change report informing the Department that the father of her child had moved into the household with her and her son.
3. The Department recalculated Claimant's FAP budget to include the child's father in the group and his income in the group's income.

4. On December 14, 2012, the Department sent Claimant a Notice of Case Action notifying her that her FAP case would close effective January 1, 2013, because the group's net income exceeded the applicable net income limit.
5. On December 21, 2012, Claimant filed a request for hearing, 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), and Department of Human Services Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

Additionally, Claimant was an ongoing recipient of FAP benefits, with a FAP group composed of herself and her son. On December 14, 2012, Claimant filed a change report advising the Department that her son's father had moved into her home. The Department recalculated Claimant's FAP budget to include the child's father in the group and his income into the household's income. On December 14, 2012, the Department sent Claimant a Notice of Case Action notifying her that her FAP case would close on January 1, 2013, because the household's net income exceeded the applicable FAP net income limit. Claimant requested a hearing, protesting the closure of her FAP case.

At the hearing, Claimant contended that the child's father and his income should not have been included in the determination of her FAP group and the group's income. BEM 212 requires that parents and their children under 22 years of age who live together **must** be in the same group. BEM 212 (November 1, 2012), p 1. Thus, the Department properly included the child's father in Claimant's group. Furthermore, the earned income of a FAP group member is included in the calculation of the group's income for FAP purposes. BEM 556 (July 1, 2011), p 2; BEM 501 (December 1, 2011), p 5. Therefore, the Department properly considered the child's father's income in recalculating Claimant's FAP budget.

Because Claimant is a Senior/Disable/Veteran (SDV) member of her FAP group, her FAP group is eligible for FAP benefits only if the group's net income is below the net income limit. BEM 550 (February 1, 2012), p 1. The FAP net income limit for a group size of three is \$1591. RFT 250 (October 1, 2012), p 1. In this case, the Department concluded that Claimant's net income was \$2114.

At the hearing, the Department provided a net income budget showing the calculation of Claimant's FAP group's net income. The budget was based on earned income of \$2322 and unearned income of \$744. Claimant acknowledged that she received monthly Supplemental Security Income (SSI) of \$730 and monthly State SSI Payments of \$14 (based on quarterly \$42 payments). Thus, unearned income of \$744 was properly calculated. The Department testified that the earned income was based on information Claimant provided in the change report that the child's father earned \$13.50 per hour for 40 hours weekly employment. The weekly average of the father's income, \$540, multiplied by 4.3 in accordance with Department policy, results in monthly earned income of \$2322, consistent with the budget. BEM 505 (October 1, 2010), p 6.

Claimant's FAP budget included a \$148 standard deduction available to Claimant's FAP group size of three. RFT 255 (October 1, 2012), p 1. Claimant's group was also entitled to an earned income deduction equal to 20% of the group's earned income (or \$465 in this case), as indicated on the budget. BEM 550 (February 1, 2012), p 1. Claimant verified that she had no day care, child support, or medical expenses. The Department also considered Claimant's monthly rent of \$990, which Claimant verified, and the standard heat and utility deduction of \$575 available to all FAP recipients, and, based on those figures, calculated Claimant's excess shelter deduction of \$339 in accordance with Department policy. See BEM 554 (December 1, 2012), p 19; RFT 255, p 1.

Based on the foregoing figures and a FAP group size of three, the Department acted in accordance with Department policy when it concluded that Claimant's household's net income was \$2114. Because Claimant's net income exceeded the FAP net income limit of \$1591, the Department acted in accordance with Department policy when it closed Claimant's FAP case. BEM 556 (July 1, 2011); RFT 250, p 1.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

- did act properly when it closed Claimant's FAP case for excess net income.
 did not act properly when .

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.



Alice C. Elkin

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

Date Signed: 4/19/2013

Date Mailed: 4/19/2013

NOTICE: 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)

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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/hw

cc:

