

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201338574
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: April 29, 2013
County: Wayne (35)

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 29, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's Food Assistance Program (FAP) application on the basis that her net income exceeded the net income limit for her group size?

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 March 8, 2013, Claimant applied for FAP benefits.
2. On March 11, 2013, the Department sent Claimant a Notice of Case Action denying her application on the basis that her net income exceeded the net income limit for her FAP group size.
3. On March 27, 2013, 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), the Department of Human Services Bridges Eligibility Manual (BEM), and the Department of Human Services Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp 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.

In this case, Claimant testified that she applied for FAP benefits on March 8, 2013 when she was laid off from her temporary position. On her application, she did not report any employment or earned income. The only income she reported was Retirement, Survivors and Disability Insurance (RSDI) income. Nonetheless, the Department budgeted earned income from employment Claimant had previously reported to the Department and determined that she was not eligible for FAP benefits because her net income exceeded the net income limit applicable to her group size.

For FAP applications, an interview is required before denying assistance even if it is clear from the application or other sources that the group is ineligible. BAM 115 (January 2013), p 14. In this case, the Department did not establish that an interview was held, and it was unable to explain why it budgeted earned income based on a January 18, 2013, paystub for a March 2013 application. An interview would have established that Claimant was no longer employed and that earned income should not have been budgeted. See BEM 505 (October 2010), p 3 (providing that past income that is ending is not a good indicator of future income).

Although the Department was aware that Claimant had prior employment, because Claimant did not identify any employment in her FAP application and claimed she was no longer employed as of the date she applied, she might be required to verify that her employment income had stopped. BEM 505 (October 2010), p 11. However, the Department would have to tell the client what verification was required, how to obtain it, and the due date. BAM 130 (May 2012), pp 2-3. There was no evidence in this case that the Department requested any such verification. Furthermore, in those circumstances where a client is ineligible in the month of application but eligible for a future month due to changes in circumstances, the Department must use the same application to deny eligibility for the application month and to determine eligibility for later months and it can process the application to request any additional needed verifications. BAM 115, pp 6-7.

In this case, the Department did not act in accordance with Department policy when it denied Claimant's FAP application on the basis of Claimant's earned income where

Claimant did not identify any employment in her application, the Department did not interview Claimant to establish that she was no longer working, and the Department did not request verification of stopped employment before denying Claimant's application.

DECISION AND ORDER

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department did not act in accordance with Department policy when it denied Claimant's FAP application. Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Claimant's March 8, 2013 FAP application;
2. Begin reprocessing Claimant's FAP application in accordance with Department policy and consistent with this Hearing Decision;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from March 8, 2013, ongoing; and
4. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 5/6/2013

Date Mailed: 5/6/2013

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:

