

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

IN THE MATTER OF:

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Reg. No.: 2013-57950
Issue No.: 3015;3019
Case No.: ██████████
Hearing Date: August 14, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 conducted on August 14, 2013 from Detroit, Michigan. Claimant and ██████████, ██████████ appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████ ██████████ Eligibility Specialist.

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 an unverified date, Claimant submitted an application for FAP benefits.
2. On June 26, 2013, the Department sent Claimant a Verification Checklist (VCL) for which Claimant was required to submit requested verifications of her home rent and any donation or contribution from an individual outside the group by July 8, 2013. (Exhibit 1)
3. On June 27, 2013, the Department sent Claimant a second VCL for which Claimant was required to submit requested verifications of her mother's wages and pay stubs by July 8, 2013. (Exhibit 2)

4. On July 3, 2013, the Department sent Claimant a Notice of Case Action informing her that her FAP application had been denied on the basis that her gross income exceeded the limit. (Exhibit 3).
5. On July 11, 2013, Claimant filed 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), the Bridges Eligibility Manual (BEM), and the 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. Rule 400.3001 through Rule 400.3015.

Additionally, Claimant submitted an application for FAP benefits. In connection with that application, Claimant timely submitted the requested verifications of her home rent. Because the apartment lease submitted by Claimant was in her mother, Stephanie Pilgrim's name, the Department requested additional verification of Claimant's mother's wages, as they believed the Claimant and her mother lived together and that Claimant's mother was a mandatory group member. After receiving the verification of income from Claimant's mother, the Department sent Claimant a Notice of Case Action denying her application because the group's gross income exceeded the limit for FAP purposes. (Exhibit 3). Claimant requested a hearing disputing the denial.

At the hearing, the Department testified that Claimant and her mother are mandatory group members because the Department believed that they were living together based on the information provided in the apartment lease. While the Department is correct in its interpretation of policy that parents and their children under age 22 who live together must be in the same FAP group, Claimant and her mother credibly testified that they do not live together. BEM 212 (November 2012), p. 1. Claimant's mother testified that in July 2013, in an attempt to assist her daughter, she put her name on the apartment lease where her daughter was going to be living. Claimant stated that she lives at the newly leased apartment with her child and that her mother never moved in with them. Claimant's mother provided her driver's license as verification that her address is not the address on the lease. The hearing request also has Claimant's mother's address listed as different from Claimant's mailing address. Additionally, Claimant stated that her mother pays the monthly rent on the newly leased apartment and that she reimburses her mother \$400.00 per month. Claimant provided a receipt supporting this testimony. (Exhibit 5).


Under the facts in this case, where Claimant provided sufficient evidence to establish that she and her mother do not live together, the Department did not act in accordance with Department policy when it determined that Claimant's mother was a mandatory member of Claimant's FAP group and subsequently denied the application on the basis that the gross income exceeded the limit.

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 not act in accordance with Department policy when it denied Claimant's application for FAP benefits. Accordingly, the Department's FAP 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 FAP application;
2. Begin reprocessing the application in accordance with Department policy and consistent with this Hearing Decision;
3. Begin the issuance of supplements to Claimant for any FAP benefits she was eligible to receive but did not from the date of application, ongoing; and
4. Notify Claimant of its decision in writing in accordance with Department policy.



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

Date Signed: August 21, 2013

Date Mailed: August 21, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]