

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201369682
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: October 24, 2013
County: Macomb

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 October 24, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's eligibility for the Food Assistance Program (FAP)?

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 is an ongoing Food Assistance Program (FAP) recipient.
2. On April 29, 2013, the Department received a Redetermination (DHS-1010) from the Claimant, who had reported self-employment income.
3. On May 2, 2013, the Department sent the Claimant a Verification Checklist (DHS-3503) with a due date of May 13, 2013, requesting verification of self-employment income and expenses for the previous 90 days.
4. On May 13, 2013, the Department received one Self-employment Income and Expenses Statement (DHS-431) and a copy of the Claimant's income tax return.
5. On June 13, 2013, the Department notified the Claimant that he was approved for Food Assistance Program (FAP) benefits in the monthly amount of [REDACTED].

6. On June 19, 2013, the Claimant submitted receipts of self-employment income expenses.
7. The Department received the Claimant's request for a hearing on September 17, 2013, protesting the Department's determination of his eligibility for the Food Assistance Program (FAP).

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.

Individuals who run their own businesses are self-employed. This includes but is not limited to selling goods, farming, providing direct services, and operating a facility that provides services such as adult foster care home or room and board. A person who provides child care in his/her home is considered to be self-employed. Rental income is sometimes counted as unearned income and sometimes as self-employment. The amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. Department of Human Services Bridges Eligibility Manual (BEM) 502 (July 1, 2013), p 1.

Self-employment income may be verified by providing an income tax return or a Self-employment and Expense Statement (DHS-431). Self-employment expenses must be documented on the self-employment statement. Department of Human Services Bridges Eligibility Manual (BEM) 502 (July 1, 2013), p 7.

In this case, the Claimant was an ongoing Food Assistance Program (FAP) recipient when the Department conducted a routine redetermination of his eligibility to receive benefits. On May 2, 2013, the Department sent the Claimant a Verification Checklist (DHS-3503), requesting verification of the self-employment income he had reported on his Redetermination (DHS-1010).

On May 13, 2013, the Department received self-employment income statement and a copy of his income tax return. Instead of providing verification of income and expenses for the previous 90 days as directed by the Verification Checklist, the Claimant provided verification of his annual income.

On June 13, 2013, the Department applied the best information available and determined that the Claimant is eligible for a monthly Food Assistance Program (FAP) allotment of [REDACTED].

The Claimant argued that the Department failed to properly determine his self-employment income.

The Claimant properly verified his self-employment income in accordance with BEM 502. The Claimant did not allege that this income tax return included income that was not likely to continue.

However, the Claimant failed to properly account for his monthly expenses as directed by BEM 502.

On May 13, 2013, the Department provided the Claimant with a Verification Checklist and three self-employment statements to document his self-employment income and expenses for the previous 90 days. When the Claimant failed to complete these forms as requested, it would have been improper to close the Claimant's Food Assistance Program (FAP) benefits because his income had been verified with his income tax return.

It would have been appropriate to apply the flat 25% expenses deduction as directed by BEM 502. Instead, the Department allowed the Claimant to submit expenses receipts on June 19, 2013, although the Claimant failed to account for these expenses on a self-employment statement.

Based on the evidence and testimony available during the hearing, this Administrative law Judge finds that the Department properly applied policy and used the best information available to determine the Claimant's actual self-employment income and expenses. The Department did provide the Claimant with the opportunity to clarify his self-employment income and expenses, but the Claimant failed to take advantage of this opportunity. Therefore, the Department has established that it properly determined the Claimant's eligibility for the Food Assistance Program (FAP).

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 determined the Claimant's eligibility for the Food Assistance Program (FAP).

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

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

Date Signed: 10/28/2013

Date Mailed: 10/28/2013

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:

