

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-21134
Issue No(s): 3008
Case No.: [REDACTED]
Hearing Date: February 5, 2014
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 February 5, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED] and her mother, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager [REDACTED] and Eligibility Specialists [REDACTED] and [REDACTED].

ISSUE

Did the Department properly reduce Claimant's 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. Claimant was an on-going FAP recipient.
2. On September 16, 2013 a Redetermination was mailed to Claimant, scheduling her for a telephone appointment at 4:15 pm on October 1, 2013.
3. Claimant is self-employed in a salon.
4. Claimant provided verification of her income and reported a number of expenses, consisting in part of payments to independent contractors at her salon.
5. Claimant's reports of salon expenses were not supported by copies of cancelled checks, receipts, or other independent documents.

6. On November 12, 2013, the Department mailed a Notice of Case Action informing her that her FAP was approved for \$ [REDACTED] per month for a group of three beginning November 1, 2013.
7. Her FAP was premised on income of \$ [REDACTED] earned by her son, \$ [REDACTED] in self-employment income, and \$ [REDACTED] in unearned income (child support).
8. On January 6, 2014, Claimant requested a hearing.

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.

A Claimant is expected to provide verification of income and expenses. As stated in BAM 210, page 9, "A report is considered complete when all of the sections (including the signature section) on the DHS-1046 and the DHS 2240-A are answered completely and required verifications are returned by the client or client's authorized representative. If an expense has changed and the client does not return proof of the expense, but all of the sections on the report are answered completely, remove the expense from the appropriate data collection screen in Bridges before running eligibility determination and benefit calculation (EDBC)."

Claimant testified that she has been receiving assistance for some years, and had not previously been required to submit verification of expenses beyond her personal statement of costs for expenses such as independent contractors. It is worth noting that, in the Redetermination form completed by Claimant (Exhibit 1, Pages 4A), under the heading of Income Source, Claimant was instructed to "provide proof of self-employment/expense records over the last year" and in her statement under that heading she reported gross income of \$ [REDACTED] weekly. On October 17, 2013, the Department mailed a form DHS-431, Self-Employment Income and Expense Statement which she returned and reported income for the month of July 2013 of \$ [REDACTED]. On the second page of that form she listed expenses which seem to reflect \$ [REDACTED] in labor expense (50% of sales), \$ [REDACTED] in rent, and \$ [REDACTED] in utilities. Reconciling the Claimant's written statements proves challenging. If she is paying contract employees 50% of sales, and if her sales for July 2013 were \$ [REDACTED] even assuming Claimant herself had no sales, the most she should have paid them would have been \$ [REDACTED]. It is impossible to determine where the \$1,400 in labor expense came from.

Within Exhibit 1 are a number of pages marked as 1-27. At page 8 she lists her income and expenses for the month of August 2013. She reported "Sal on Gross" of \$ [REDACTED] "Self Gross" of \$ [REDACTED] "50% Commission" of \$ [REDACTED] tips of \$ [REDACTED] and "labor wages employees" of \$ [REDACTED] among other details. The undersigned, despite his experience in various private businesses, cannot decipher this statement. Is Claimant saying she paid labor of \$ [REDACTED] when her salon's gross sales were \$ [REDACTED] for the month? Where does the 50% commission of \$ [REDACTED] fit into the details? If she is paying her contract employees 1/2 of their sales, and if she is paying them \$ [REDACTED] they would have had sales of \$ [REDACTED] for the month.

At page 11 of the Exhibits, Claimant reported her sales, including sales tax, for the month of August 2013 were \$ [REDACTED] of which she paid herself 50% commission (\$ [REDACTED]) and had tips of \$ [REDACTED]. It is inexplicable why Claimant would be paying herself a commission if she is self-employed.

The Claimant did not provide sufficient information for the Department to evaluate her claimed income and expenses. Regardless of how her case worker(s) might have handled her case in the past, she is required to provide acceptable verification.

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 closed Claimant's FAP benefits because of her failure to verify her expenses and her income.

DECISION AND ORDER

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



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 5, 2014

Date Mailed: February 6, 2014

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

DTJ/las

cc:

