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

#### IN THE MATTER OF:



Reg. No.: Issue No(s).: Case No.: Hearing Date: County:

2014-22471 3001

February 11, 2014 Ingham

### 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 CF R 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 F ebruary 11, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claim ant, and Legal Services Staff Attorney Participants on beh alf of the Department of Human Services (Department) included Family I ndependence Spec ialist

### **ISSUE**

Did the Department pr operly close Claimant's Food Assistance Program (FAP) and benefits?

## FINDINGS OF FACT

The Administrative Law Judge, based on t he competent, material, and substantial evidence on the whole record, finds as material fact:

- 1. Claimant was an on-going F AP and Fami ly Independence Progr am (FIP cash assistance) recipient.
- 2. Claimant has four sons, three of whom live in her home.
- 3. Claimant receives monthly FIP of \$ and child support of \$
- 4. One of Claimant's sons earns income of \$ per month.
- 5. Two of Claimant's s ons receiv e Supple mental Security Income (SSI), with one receiving **\$ and the other re ceiving \$ and the**
- 6. Before Claimant's FAP was adj usted to reflect the group's earned and un earned income, she was receiving **\$ per** month for FAP.

- 7. After Claimant's budget was adjust ed to account for the earned and unearned income, her FAP was closed.
- 8. On January 6, 2014, Claimant requested a hearing.

# CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Service s Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), D epartment of Human Servic es 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 197 7, 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 Fam ily Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

When the Department calculates a FAP budget it takes into account, among many other factors, the earned and unearned income the Claimant receives. Exhibit 1, Pages 9-11 is the Notice of Case Action dated Janu ary 2, 2014, reflecting her group's monthly "unearned income" of \$ and earned income of \$

It is not within the scope of the Administra tive Law Judge's aut hority to create n ew guidelines, eligibility cr iteria, or deductibles that the D epartment is to use. The issue s that can be decided are whether the Department followed policy with respect to each program, based upon the existing rules, laws, policies, etc.

The Claimant did not dispute the amounts used by the Department in her budget. There is no evidence that the Department erred in its calculation of Cl aimant's FAP benefits after taking into account her group's monthly earned and unearned.

The Administrative Law Judge, based upon 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 decreased Claim ant's Food Assistanc e Program benefits.

# **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 12, 2014

Date Mailed: February 12, 2014

**NOTICE OF APP EAL:** The claimant may appea I the Dec ision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsiderati on was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order . MAHS will not order a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 disc overed evidence that existed at the time of the or iginal 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 clai mant must specify all reas ons 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.

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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

