

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201422918  
Issue No(s): [REDACTED]  
Case No.: [REDACTED]  
Hearing Date: February 12, 2014  
County: Cass

**ADMINISTRATIVE LAW JUDGE:** Gary F. Heisler

**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 12, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], Claimant's live in partner. Participants on behalf of the Department of Human Services (Department) included ES [REDACTED] and [REDACTED]. There was no Medical Assistance (MA) issue for this hearing. That portion of the hearing is dismissed.

**ISSUE**

Did the Department properly close Claimant's Food Assistance Program (FAP) case on January 1, 2014 for excess income?

**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 ongoing recipient of Food Assistance Program (FAP) benefits.
2. On November 19, 2013, [REDACTED] called the DHS case worker and gave information about future employment. (Page 6)
3. On December 3, 2013, a Semi-Annual redetermination was completed for Claimant's benefit group. The income information from the November 19, 2012 telephone conversation with [REDACTED] was included in Claimant's Food Assistance Program (FAP) financial eligibility budget. Claimant was sent a Notice of Case Action (DHS-1605) which stated the Food Assistance Program (FAP) would close on January 1, 2014 due to excess income.

4. On December 5, 2013, ██████ filled out the request for hearing. He wrote "I do not have employment yet this was based on my future employment prospects." The hearing request was not submitted until January 13, 2013.
5. On January 1, 2014, Claimant's Food Assistance Program (FAP) case closed.
6. On January 10, 2014, ██████ and FIM ██████ spoke on the telephone about the situation. (Page 10)
7. On January 13, 2013, ██████ submitted a request for hearing.
8. On January 14, 2014, a new Food Assistance Program (FAP) application and change report were submitted on line for Claimant's benefit group. The change report stated that on January 1, 2013, ██████ self-employment and a job at ██████ had ended. The parties agree the intended date on the change report is January 1, 2014. (Pages 16 & 17)

### **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.

██████ and ES Willming agree that they spoke on the telephone November 19, 2013. They do not agree on what information was provided by ██████. ES Willming testified that Mr. Ball reported he was starting employment at ██████ on November 25, 2013; he was going to be working 40 hours per week and paid ██████ per hour; and his first paycheck would be on December 6, 2013. ██████ testified that he told ES ██████ he MIGHT be starting that job and would report if he actually got that job.

Based on subsequent events, the Department's position is that ██████ was not working at ██████ when the January 14, 2014, Food Assistance Program (FAP) application was processed and approved. The final impact of the Department's action is that Claimant's benefit group did not receive Food Assistance Program (FAP) benefits for January 1-13, 2014. The Department's position on the situation is that they were correct in using the information provided by ██████ for re-determining Claimant's Food Assistance Program (FAP) eligibility.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

ES [REDACTED] testified that on November 19, 2013, [REDACTED] reported he was starting employment at [REDACTED] on November 25, 2013; he was going to be working 40 hours per week and paid [REDACTED] per hour; and his first paycheck would be on December 6, 2013.

[REDACTED] testified that on November 19, 2013, he told ES [REDACTED] he MIGHT be starting that job and would report if he actually got that job.

On December 5, 2013, [REDACTED] knew the Department had included additional earned income for him in their determination that Food Assistance Program (FAP) benefits would end January 1, 2014. However, [REDACTED] did not contact the Department until January 13, 2014 when he submitted the hearing request.

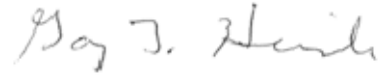
On January 14, 2014, [REDACTED] submitted a change report stating his employment had ended on January 1, 2014.

Based on the totality of evidence in this record, ES [REDACTED] testimony about the November 19, 2013, telephone conversation is found more credible. The Department correctly used the employment information [REDACTED] reported and processed the reported change within 10 days as required by Department of Human Services Bridges Administration Manual (BAM) 220 Case Actions (2013) pages 21 & 22. If [REDACTED] had reported different employment information before the Food Assistance Program (FAP) closed on January 1, 2014, Department policy would have allowed a different outcome.

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 Food Assistance Program (FAP) case on January 1, 2014 for excess income.

**DECISION AND ORDER**

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



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Gary F. Heisler  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 02/20/2014

Date Mailed: 02/20/2014

**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

201422918/GFH

GFH/sw

cc:

