

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201423910  
Issue No(s): [REDACTED]  
Case No.: [REDACTED]  
Hearing Date: February 20, 2014  
County: SSPC West

**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 20, 2014, from Lansing, Michigan. Participants on behalf of Claimant included her son and authorized hearing representative [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

**ISSUE**

Did the Department properly deny Claimant's December 30, 2013 Food Assistance Program (FAP) application due to 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. On December 30, 2013, Claimant submitted a Food Assistance Program (FAP) application.
2. On January 7, 2014, Claimant participated in a telephone interview with ES Redd. ES Redd recorded that both Claimant's sons were employed. Claimant's Food Assistance Program (FAP) financial eligibility budget was run with income for both sons and showed the group was not eligible due to excess income. Claimant was sent a Notice of Case Action (DHS-1605).
3. On January 21, 2014, Claimant submitted a request for 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.

In this case Claimant has a language barrier. Her son and authorized hearing representative [REDACTED] represented her during the hearing because this Administrative Law Judge was unable to understand what she was trying to convey. ES Redd is not present to provide any testimony regarding the telephone interview. ES Redd recorded that both Claimant's sons are employed at the same place, with the same pay rate and same number of hours. During this hearing, D. Anyijong testified that his brother does not work at all. Department of Human Services Bridges Administration Manual (BAM) 105 Rights and Responsibilities (2013) under local office responsibilities/assisting the client, on page 13 states:

### **All Programs**

The local office must assist clients who ask for help in completing forms or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English.

The poster, DHS Publication 478, Help Is Available, must be displayed in the local office lobby. A section of the application form has the same title and information. These documents tell clients that DHS must help persons fill out the application when requested.

### **Interpretation**

The department will provide appropriate interpreters to persons with limited English proficiency (LEP) to afford such persons an equal opportunity to participate in or benefit from DHS programs and services. The department and its contracted service providers will take reasonable steps to provide services and information in appropriate languages to ensure that LEP individuals are effectively informed, notified of their rights and responsibilities and can effectively participate in and benefit from DHS programs, services and activities.

The provisions described in this policy apply to all DHS programs, contract service providers and sub-recipients who provide direct services to DHS clients. Language interpreters will be available for use by clients and applicants in each

phase of the service delivery process (for example, telephone inquiries, intake interviews, service delivery, complaints, etc.)

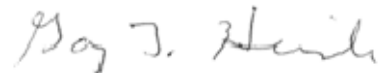
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it conducted the telephone interview with Claimant and subsequently denied her December 30, 2013 Food Assistance Program (FAP) application due to excess income.

**DECISION AND ORDER**

Accordingly, the Department's decision **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's December 30, 2013 Food Assistance Program (FAP) application.
2. Process the December 30, 2013 application in accordance with Department policy to include ensuring correct information is obtained from Claimant and her benefit group before determining eligibility.



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

Date Signed: 02/24/2014

Date Mailed: 02/25/2014

**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

GFH/sw

cc:

