

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014 24250
Issue No(s): 3008
Case No.: ██████████
Hearing Date: February 24, 2014
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, ES.

ISSUE

Did the Department properly deny the Claimant's Food Assistance ("FAP") application?

FINDINGS OF FACT

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

1. The Claimant applied for Food Assistance on October 31, 2013. At the time of the application the Claimant indicated that she purchased and prepared food with her son ██████████
2. The Claimant submitted copies of her property tax bill with the application but the Department did not receive it.
3. The Department did not issue a verification checklist for property taxes.
4. The Department issued a Notice of Case action dated January 14, 2014 which closed Claimant's food assistance as of February 1, 2014.

5. The Claimant's son's income based upon employment was 40 hours at \$7.00 per hour or \$280 every two weeks.
6. The Claimant requested a hearing on January 29, 2014 protesting that her expenses were not properly included in her food benefit calculation.

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.

Additionally, the Department denied/closed the Claimant's food assistance after it determined that the Claimant's FAP group's income exceeded the gross income limit. Exhibit 1. A review of the FAP budget was made at the hearing, and it was determined that the Department did not correctly calculate the Claimant's son's income (██████). The Department indicated that her son's income was \$7.00 per hour and he earned \$280 biweekly gross. The Department determined the son's gross income to be \$645; however, the gross income which should have been included in the budget was \$602 ($\$280 \times 2.15 = \602). Based upon the evidence presented by the Department the gross income for Marvin of \$645 was incorrect. The Department did have actual pay stubs which it did not use because they were high because the son's hours increase due to him not being in school and more work hours due to the holidays. Per BEM 505 the Department indicated that it attempted to use a better number that would account for this, and it was determined based upon file notes that the \$280 was correct. No other evidence was presented on this issue; therefore, the Department erred when it computed the son's earned income.

The Department did not include Claimant's property taxes when calculating the FAP benefits and the excess shelter calculation. The Claimant stated she provided the Department with the tax bill with her application but the Department did not have a current tax bill in the file and did not present a verification checklist requesting that property taxes were requested. Therefore, based upon the evidence presented the Department is required to request updated taxes and include them in the FAP budget, as the Claimant's testimony that she provided updated taxes was un rebutted by the Department

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 did not act in accordance with Department policy when it miscalculated the earned income amount and did not include property taxes when calculating the excess shelter calculation and, therefore, must re-determine Claimant's eligibility for FAP benefits.

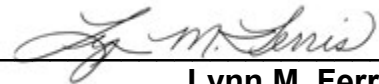
DECISION AND ORDER

Accordingly, the Department's decision is

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. The Department shall re-register the Claimant's October 31, 2013 FAP application and shall re-determine Claimant's eligibility based upon the correct earned income for [REDACTED] as set forth in this Decision and shall issue a verification checklist so that shelter expenses (property taxes) can be determined. If the verification is not received, the eligibility determination shall be made without consideration of property tax expense.
2. If the Department determines that the Claimant is eligible for FAP benefits, it shall issue a FAP supplement to the Claimant in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 4, 2014

Date Mailed: March 4, 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

LMF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]