

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201427391
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: March 12, 2014
County: Macomb County DHS #20

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 March 12, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] and [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly denied the Claimant's Food Assistance Program (FAP) application?

FINDINGS OF FACT

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

1. The Claimant applied for Food Assistance Program (FAP) benefits as a group of five.
2. The Department determined that two members of the Claimant's household are not eligible for Food Assistance Program (FAP) benefits because of their immigration status.
3. On February 10, 2014, the Department denied the Claimant's Food Assistance Program (FAP) application due to excess income.
4. The Department received the Claimant's request for a hearing on February 13, 2014, protesting the denial of her application for assistance.

CONCLUSIONS OF LAW

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.

On February 10, 2014, the Department denied the Claimant's application for Food Assistance Program (FAP) benefits. The Department's representative testified that although the Claimant had applied as a group of five, two members of the Claimant's household are not eligible due to their immigration status. The Department's representative testified that the Claimant was denied Food Assistance Program (FAP) benefits as a group of three on the basis of excess income.

The Claimant argued that there are five people in her household that are eligible for Food Assistance Program (FAP) benefits and the Department has mistaken the identity of two people listed on her application for benefits.

This Administrative Law Judge finds that the Department has failed to present sufficient evidence to establish that it properly determined the Claimant's benefit group size and composition.

This Administrative Law Judge finds that the Department failed to present any evidence to establish that the Claimant is ineligible for the Food Assistance Program (FAP) due to excess income.

Therefore, the Department has failed to establish that it was acting in accordance with policy when it denied the Claimant's application for assistance.

DECISION AND ORDER

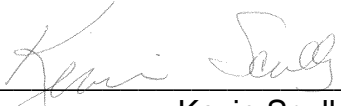
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the Claimant's Food Assistance Program (FAP) application.

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. Provide the Claimant with a ten-day period to clarify the size and composition of her household.
2. Initiate a determination of the Claimant's eligibility for Food Assistance Program (FAP) benefits as of January 1, 2014.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.

4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.


Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 13, 2014

Date Mailed: March 13, 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:

201427391/KS

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CL/hj

cc:

