

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201428587
Issue No.: 3001, 3008
Case No.: [REDACTED]
Hearing Date: March 18, 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 18, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] and [REDACTED] [REDACTED].

ISSUE

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

FINDINGS OF FACT

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

1. On December 26, 2013, the Claimant applied for Food Assistance Program (FAP) benefits.
2. On January 24, 2014, the Department notified the Claimant that it had denied her application for Food Assistance Program (FAP) benefits.
3. The Department received the Claimant's request for a hearing on February 21, 2014, protesting the denial of her Food Assistance Program (FAP) application based on excess income.

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.

The Claimant submitted an application for Food Assistance Program (FAP) benefits on December 26, 2013. The Department determined that the Claimant's household receives monthly earned income in the gross monthly amount of \$3,583. On January 24, 2014, the Department notified the Claimant that it had denied her application for Food Assistance Program (FAP) benefits based on her household income.

The Department's representative testified that based on the paycheck stubs submitted by the Claimant, that one member of the Claimant's benefit group receives less income indicated on the hearing summary and in the budget printout submitted as a Department exhibit. The Department's representative testified that he was not sure whether the Claimant's income had stopped or whether this income was likely to continue into the future. The Department's representative testified that the Claimant was not eligible for the Food Assistance Program (FAP) because even without the Claimant's earned income, the group was likely not eligible because their income would exceed the gross income limit. The Department failed to provide a budget showing the FAP gross income budget, but instead provided a copy of the net income budget. This net income budget does not list a monthly shelter expense.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department failed to establish that it properly denied the Claimant's application for Food Assistance Program (FAP) benefits.

DECISION AND ORDER

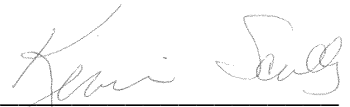
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the Claimant's Food Assistance 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 her household income, and whether there has been any ending income before submitting her application for assistance.
2. Initiate a determination of the Claimant's eligibility for Food Assistance Program (FAP) benefits as of December 26, 2013.
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 20, 2014

Date Mailed: March 21, 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:

201428587/KS

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

KS/hj

cc:

