

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201424814
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: March 12, 2014
County: Oakland County DHS #2

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]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's eligibility for Food Assistance Program (FAP) benefits?

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 is an ongoing Food Assistance Program (FAP) recipient.
2. On January 7, 2014, the Claimant reported that his 18-year-old daughter had moved in to his household.
3. The Claimant receives monthly earned income in the gross monthly amount of \$ [REDACTED].
4. The Claimant's daughter receives monthly earned income in the gross monthly amount of \$ [REDACTED].
5. On January 7, 2014, the Department determined that the Claimant was eligible for a monthly Food Assistance Program (FAP) allotment of \$ [REDACTED] as of February 1, 2014.

6. The Department received the Claimant's request for a hearing on January 22, 2014, protesting the amount of his Food Assistance Program (FAP) allotment as of February 1, 2014.

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.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2013).

The Claimant was an ongoing Food Assistance Program (FAP) recipient when he reported that his 18-year-old daughter had moved in to his household in January of 2014. The Claimant receives monthly earned income in the gross monthly amount of \$[REDACTED]. The Claimant's daughter receives monthly earned income in the gross monthly amount of \$[REDACTED]. Based on their combined income, the Department re-determined the Claimant's Food Assistance Program (FAP) eligibility and determined that as of February 1, 2014, they were entitled to a monthly allotment of \$[REDACTED].

The Claimant's daughter is 18-year-old and is attending high school, but is not expected to graduate until 2016. Therefore, the daughter's income is countable towards the Claimant's Food Assistance Program (FAP) budget.

The Department disregards the earnings of an individual that is under 18-years-old, attending high school and is expected to graduate before age 19. Department of Human Services Bridges Eligibility Manual (BEM) 245 (July 1, 2013). Department of Human Services Bridges Eligibility Manual (BEM) 501 (January 1, 2014).

The Claimant did not dispute the determination of his household income, but testified that he is not satisfied with how his caseworker is handling his case.

A complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process, but shall be referred to the department personnel director. MAC R 400.903.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department was acting in accordance with policy when it determined the Claimant's Food Assistance Program (FAP) eligibility as of February 1, 2014.

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 acted in accordance with policy when it determined the Claimant's Food Assistance Program (FAP) eligibility.

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



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

Date Signed: March 19, 2014

Date Mailed: March 19, 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

KS/hj

cc:

