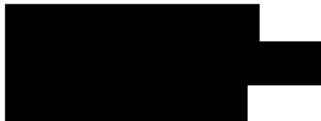


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARINGS SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201430840
Issue No: 1001, 3001
Case No: [REDACTED]
Hearing Date: April 2, 2014
Genesee County DHS #2

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (Department) on March 3, 2014. After due notice, a telephone hearing was held on April 2, 2014 from Lansing, Michigan. Claimant appeared and provided testimony. The Department was represented by [REDACTED], a hearings facilitator with the Department's Genesee County office.

ISSUE

Whether the department properly determined Claimant's eligibility for Food Assistance Program (FAP) benefits and Family Independence Program (FIP) benefits and for the benefit periods effective March 1, 2014 and March 16, 2014, respectively?

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 February 25, 2014, Claimant applied for FAP and FIP assistance on behalf of herself, her partner, and their child. (Department Exhibit 2)
2. On February 27, 2014, the Department mailed Claimant a Notice of Case Action (DHS 1605), informing her that her application for FAP and FIP benefits were being denied effective March 1, 2014 and March 16, 2014, respectively, due to excess income. (Department Exhibits 1, 3-8)
3. On March 3, 2014, Claimant submitted a hearing request protesting the department's denial of her application for FIP and FAP benefits. (Request for a Hearing)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affective eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1)

The Food Assistance Program (FAP) was established pursuant to the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The department administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015. Department policies for the program are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The department administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

For FAP and FIP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment 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 (AMP), 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. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the department multiplies the average weekly amount by 4.3. If the client is paid every other week, the department multiplies the average bi-weekly amount by 2.15. BEM 505.

In the instant case, Claimant's hearing request clearly concerns the department's determination of her FAP and FIP benefit eligibility for the March 1, 2014 and March 16, 2014, respectively.

At the April 2, 2014 hearing, the Department's representative, Lorraine Smith, was unable to explain how the Department determined Claimant's earned income amount of \$ [REDACTED] as set forth in the Bridges FIP/SDA – Income Test (Department Exhibit 7), so as to conclude that Claimant's overall net income amount of \$ [REDACTED] exceeded the payment standard of \$ [REDACTED] for a group size of one as set forth in RFT 210. Without such an explanation, the Administrative Law Judge is unable to make a reasoned, informed decision regarding whether the department properly determined that Claimant was ineligible for FIP benefits for the benefit period effective March 16, 2014 due to excess income.

Regarding the Department's determination that Claimant was also ineligible for FAP benefits due to excess income, Ms. Smith testified that Claimant's group's monthly earned income amount of \$ [REDACTED] as set forth in Bridges FAP-EDG Net Income Results (Department Exhibit 8) was based on Claimant's group member's gross earnings for the period January 30, 2014 through February 28, 2014, which earnings totaled \$ [REDACTED]. Because Claimant's group member was paid weekly, the Department multiplied his average weekly amount during this five-week period (\$ [REDACTED] by 4.3, as required by policy, resulting in an earned income amount of \$ [REDACTED]. Thereafter, Claimant's group member's total monthly income was reduced by an earned income deduction of \$ [REDACTED], a standard deduction of \$ [REDACTED], and an excess shelter deduction of \$ [REDACTED], leaving a monthly net income of \$ [REDACTED].

Federal regulations at 7 CF 273.10 provide standards for income and the amount of household benefits. In accordance with the federal regulations, the department has prepared income and issuance tables which can be found at RFT 260. This issuance table provides that a household size of three with net income of \$ [REDACTED] exceeds the net income limit of \$ [REDACTED] to qualify for FAP benefits. Therefore, the Department's denial of Claimant's application for FAP benefits for the benefit period effective March 1, 2014 due to excess income was correct.

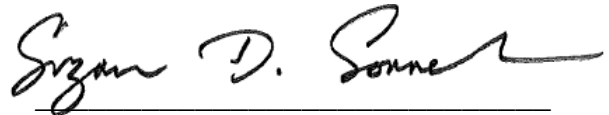
Accordingly, this Administrative Law Judge finds that the Department has failed to carry its burden of proof and did not provide information necessary to enable this Administrative Law Judge to determine whether the Department followed policy as required under BAM 600 in determining that Claimant was ineligible for FIP benefits for the benefit period effective March 16, 2014 due to excess income. This Administrative Law Judge further finds, however, that the Department correctly denied Claimant's application for FAP benefits for the benefit period effective March 1, 2014 due to excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, and for the reasons stated on the record, is unable to decide whether the Department acted in accordance with policy in determining Claimant's FIP eligibility for the benefit period effective March 16, 2014. Therefore, the Department's determination of Claimant's FIP benefit eligibility for the benefit period effective March 16, 2014 is **REVERSED** and the department shall immediately reprocess and redetermine Claimant's FIP benefit eligibility and issue any supplemental checks if she is otherwise entitled to them.

The Administrative Law Judge further decides that the Department's denial of Claimant's application for FAP benefits for the benefit period effective March 1, 2014 due to excess income was in accordance with policy and the Department's denial is therefore **UPHELD**.

It is **SO ORDERED**.



Suzanne D. Sonneborn
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 4, 2014

Date Mailed: April 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

SDS/hj

201430840/SDS

cc:

