

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

IN THE MATTER OF:



Reg. No.: 2014-34139
Issue No(s): 3001
Case No.: [REDACTED]
Hearing Date: May 21, 2014
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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, an in-person hearing was held on May 21, 2014, at the Department of Human Services (Department) Kalamazoo County office. Participants on behalf of Claimant included Claimant's father. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator [REDACTED].

ISSUE

Did the Department properly deny Claimant's Food Assistance Program (FAP) application based on excess income?

FINDINGS OF FACT

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

1. On February 18, 2014, Claimant submitted his Redetermination with a note requesting his daughter be added to his FAP case. (Dept Ex. 3-6).
2. On March 14, 2014, the Department mailed Claimant a Notice informing him that as of 4/1/14, his FAP benefits would close due his net income exceeding the limit. (Dept Ex. 13-18).
3. On March 25, 2014, Claimant requested a hearing disputing the Department's actions.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Bridges will help determine who must be included in the Food Assistance Program (FAP) group prior to evaluating the non financial and financial eligibility of everyone in the group. FAP group composition is established by determining all of the following:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately.
4. Whether the person(s) resides in an eligible living situation.

Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM 212, p 1, 2/1/14.

In this case, Claimant specifically requested his daughter be added to his group when he submitted the redetermination to the Department. Therefore, because Claimant's daughter is under 22 years of age and lives with Claimant, the Department properly included Claimant's daughter as part of Claimant's group, per policy BEM 212.

The next issue is whether Claimant's daughter's RSDI is to be counted as Claimant's group's unearned income. RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. Bridges counts the gross benefit amount as unearned income. BEM 503, p 28, 1/1/14.

Claimant's father contended that Claimant's daughter's RSDI should not be counted as Claimant's unearned income, because Claimant did not receive the income, only his wife could because of the school Claimant's daughter attended. The Department testified that they had contacted the Social Security Administration (SSA) and there was no such policy. A lengthy discussion ensued concerning contacting the SSA and asking that Claimant be sent his daughter's RSDI directly, because Claimant contended his ex-wife was not giving him his daughter's share of RSDI. Claimant could present no proof

of this, and the Department relied on the information received from SSA in determining Claimant's daughter's unearned income.

Claimant's father also argued that the Department's policy was unfair in that it was not looking at the reality of the situation, that being, although Claimant's daughter lived with him, Claimant was not receiving his daughter's RSDI.

Claimant's grievance centers on dissatisfaction with the Department's policy. Claimant's request that his daughter's RSDI not be counted in his group's income even though she lives with him is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940). As such, the Department's denial of FAP benefits due to excess income must be upheld.

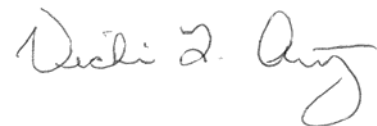
Moreover, although Claimant's father argued throughout the lengthy hearing that Claimant could not receive the RSDI for his daughter because the RSDI had to go to the parent living in the child's school district, at the end of the hearing, Claimant's father admitted that he knew there was no such policy, and in the interim, Claimant had in fact changed the RSDI payment through the Social Security Administration and he would now be receiving the RSDI for his daughter.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, finds that the Department acted in accordance with Department policy when it closed Claimant's FAP benefits for excess income.

DECISION AND ORDER

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

It is SO ORDERED.



Vicki L. Armstrong
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 30, 2014

Date Mailed: May 30, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

VLA/las

cc:

