

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-003147
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: August 26, 2014
County: Berrien

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 August 26, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], [REDACTED] and [REDACTED].

ISSUE

Did the Department properly determine the Claimant's Food Assistance Program (FAP) eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based on 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. The Department determined that the Claimant was eligible for a \$ [REDACTED] monthly allotment of Food Assistance Program (FAP) benefits effective June 1, 2014.
3. On May 21, 2014, the Department received the Claimant's request for a hearing, protesting the amount of his Food Assistance Program (FAP) benefits.

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.

The Claimant is an ongoing Food Assistance Program (FAP) recipient. On March 11, 2014, the Department sent the Claimant a Redetermination (DHS-1010) and initiated a routine evaluation of his eligibility for continuing Food Assistance Program (FAP) benefits.

The Department approved the Claimant for a \$ [REDACTED] monthly allotment of FAP benefits effective April 1, 2014. The Department approved the Claimant for a \$ [REDACTED] monthly allotment of FAP benefits effective May 1, 2014. The Department approved the Claimant for a \$ [REDACTED] monthly allotment of FAP benefits effective June 1, 2014. The Department revised its eligibility determination for June of 2014, and determined that the Claimant was eligible for a \$ [REDACTED] allotment.

On May 21, 2014, the Claimant submitted a request for a hearing seeking clarification of the changes to his FAP benefits.


The Claimant is entitled to have his monthly income that does not fluctuate reduced by his child support expenses, which fluctuate significantly throughout the year. The Department converts all expenses (except one-time-only expenses the group does not wish to average) to a non-fluctuating monthly amount. The Department will determine monthly expenses in the same manner that income is determined. Department of Human Services Bridges Eligibility Manual (BEM) 554 (May 1, 2014), p 3. The Department determined that a three month average of the Claimant's child support expense was not the most accurate determination of his expenses that are likely to continue due to the amount of fluctuation

The Claimant has months where he does not pay any child support, and based on his current income, would have his FAP benefits closed during these months if the Department did not average this expense. While the Claimant does have some months where his child support expenses are higher than the average, these higher months are not a good indication of what his ongoing expenses are likely to be.

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 was acting in accordance with policy when it used an average of the Claimant's child support expenses to determine his ongoing eligibility for Food Assistance Program (FAP) benefits.

DECISION AND ORDER

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



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

Date Signed: **8/29/2014**

Date Mailed: **8/29/2014**

KS/las

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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

cc:

