

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

IN THE MATTER OF:



Reg. No.: 14-005475
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: July 31, 2014
County: Oakland-District 2 (Madison Hts)

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 July 31, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Assistance Payments Supervisor [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Due to excess income, did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. Claimant was an on-going FAP recipient.
2. Claimant receives child support for two grandchildren who are in her care.
3. The Department had counted only [REDACTED] per month for one child, "D", yet Claimant was reportedly receiving [REDACTED] per month in child support for him.
4. Claimant receives [REDACTED] per month in child support for the other child, "J".
5. Claimant receives [REDACTED] per month in RSDI, [REDACTED] for SSI, and a quarterly check of [REDACTED] for SSI.

6. The Department budgeted Claimant's unearned monthly income for the FAP budget at [REDACTED], causing Claimant's FAP to be reduced from [REDACTED] per month to [REDACTED] per month effective July 1, 2014. See Notice of Case Action (NCA) dated June 13, 2014. (Exhibit 1 Pages 2-4.)
7. On June 17, 2014, the Department received Claimant's hearing request, protesting the Department's action.

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), and Department of Human Services Reference Tables Manual (RFT).

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.

Claimant testified that she is receiving support for "J" but nothing for "D." However, Claimant also produced a copy of a report from the Michigan Child Support Enforcement System (Exhibit A), which substantially refutes that testimony. While Claimant's support is somewhat "hit or miss" she has received considerable support for "D" during 2014. She received monthly payments for "D" totaling: January [REDACTED]; February [REDACTED]; March [REDACTED]; April [REDACTED]; May [REDACTED]; and June [REDACTED]. Monthly payments for "J" were: January [REDACTED]; February [REDACTED]; March [REDACTED]; April [REDACTED]; May [REDACTED]; and June [REDACTED]. For the three months preceding the Department's review, she received an average of [REDACTED] for "D" and [REDACTED] for "J." (There is a slight discrepancy between the amount reported in Exhibit A for "D" compared to the amount reported in Exhibit 1 Page 6, but [REDACTED] is not significant enough to result in a difference in the FAP award.)

Child support is considered "unearned income." See BEM 503. Per BEM 505, child support is generally averaged over a three-month period if the amount of income fluctuates. "Use the average of child support payments received in the past three calendar months, unless changes are expected. Include the current month if all payments expected for the month have been received. Do not include amounts that are unusual and not expected to continue." The issue can center on whether the amounts are "unusual and not expected to continue." In this case, Claimant's primary contention was that she is not receiving support for "J." That is not supported by the evidence. Exhibit A shows that she has been receiving support for "J" each month.

Claimant receives [REDACTED] per month in RSDI, [REDACTED] for SSI, and a quarterly check of [REDACTED] for SSI. Her support for "D" averages [REDACTED] per month, and for "J" averages [REDACTED]

per month. Her total unearned income therefore is [REDACTED]. The Department based its budget on monthly income of [REDACTED] for "D" and [REDACTED] for "J." Those amounts actually are less than what Claimant has been receiving. The Department therefore erred in computing Claimant's FAP budget.

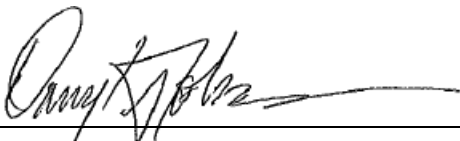
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determined Claimant's FAP benefits.

DECISION AND ORDER

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. Redetermine Claimant's FAP benefits effective July 1, 2014.
2. Issue a supplement to Claimant for any benefits improperly not issued.



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

Date Signed: **8/5/2014**

Date Mailed: **8/5/2014**

DTJ / jaf

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:

