

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

**IN THE MATTER OF:**



Reg. No.: 14-006187  
Issue No.: 3001  
Case No.: [REDACTED]  
Hearing Date: July 31, 2014  
County: Wayne-District 49

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

**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 Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

**ISSUE**

Did the Department properly deny Claimant's application for 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. On May 30, 2014, Claimant applied for FAP benefits.
2. Claimant has five individuals in her household: Claimant, her husband, and their three minor children.
3. On June 24, 2014, the Department sent Claimant a Notice of Case Action notifying her that her application was denied because the gross income for her household exceeded the gross income limit applicable to her FAP group.
4. On June 30, 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.

As a preliminary matter, it is noted that during the course of the hearing, Claimant testified that, in addition to her May 30, 2014 FAP application, she had submitted a FAP application to the Department on May 5, 2014 that she assumed had been denied because she had never received a notice concerning her eligibility under that application. The Department denied receiving a May 5, 2014 application and its records showed only Claimant's May 30, 2014 application for FAP benefits as received by the Department. Claimant did not have any support for her claim that there was a prior application submitted. Because the evidence only showed a May 30, 2014 application, that is the only application considered in this Hearing Decision.

The June 24, 2014 Notice of Case Action the Department sent Claimant notified her that her May 30, 2014 application was denied because the household's gross income exceeded the income limit applicable to her group. The evidence established that Claimant and her husband lived with their three minor children. Therefore, there were five members of Claimant's FAP group. BEM 212 (February 2014), p. 1.

The Notice of Case Action identified a gross income limit of \$2987 as applicable to Claimant's FAP group. However, because all FAP applicants are eligible for enhanced authorization for Domestic Violence Prevention Services (DVPS), the monthly categorical income limit from RFT 250, column D (200% of the poverty level) applies as the standard for gross income FAP eligibility. RFT 250 (December 2013), p. 1, BEM 231 (July 2013), pp. 1-2. Therefore, the gross income limit applicable to Claimant's FAP group size of five is \$4596. RFT 250, p. 1.

The Notice of Case Action shows that the Department calculated Claimant's gross monthly household income to be \$5978. The Department testified that this was the sum of Claimant's \$2064 gross monthly employment income from [REDACTED] and her husband's \$3839.66 gross monthly employment income from [REDACTED].

In determining Claimant's husband's income, the Department testified that it relied on his paychecks dated April 4, 2014; April 18, 2014; May 2, 2014; and May 16, 2014. The Department did not receive the husband's April 18, 2014 paystub and testified that it calculated his pay for on that date by subtracting his year-to-date income on the May 2,

2014 (\$13,987.41) from his year-to-date income on the April 4, 2014 paystub (\$10,797.76), resulting in pay for April 14, 2014 of \$3189.73. However, the Department's calculation was incomplete: to identify the pay for April 14, 2014, the Department was required to subtract Claimant's husband's \$1354.54 pay on May 2, 2014 from \$3189.73. Therefore, Claimant's husband's pay on April 14, 2014 was significantly less than that used by the Department. Because the incorrect income for the April 14, 2014 pay was used, the Department's calculation of Claimant's husband's gross monthly employment income was not in accordance with Department policy.

The Department testified that it also used Claimant's gross monthly employment income from [REDACTED] based on income information in its system concerning her pay from January 2014. The Department testified that, because income from [REDACTED] was showing on its system, it requested that Claimant provide verification of income or end of employment. Claimant denied receiving such a request, and the Department acknowledged that it had not asked for this information in writing. The Department is required to tell the client what verification is required, how to obtain it, and the due date, using a verification checklist or other acceptable verification form. BAM 130 (April 2014), p. 3.

Furthermore, the Department must verify income that stopped within the 30 days prior to the application date or while the application was pending. BEM 505 (July 2013), p. 13. In this case, Claimant credibly testified that her employment with [REDACTED] ended in March 2014 and, because her application requested information concerning employment that had ended within 30 days of the May 30, 2014 application, she did not identify her prior employment at [REDACTED]. Because Claimant's testimony established that her employment ended more than 30 days prior to the May 30, 2014 application and the Department presented no evidence that would lead it to believe that the employment had continued; the Department did not act in accordance with Department policy when, under the facts presented, it included Claimant's [REDACTED] employment income in determining her FAP income eligibility.

Because the Department applied the incorrect gross income limit, has failed to establish that it properly calculated Claimant's husband's income, and improperly included Claimant's employment income, 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 did not act in accordance with Department policy when it denied Claimant's May 30, 2014 FAP application.

### **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. Reregister and reprocess Claimant's May 30, 2014 FAP application;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from May 30, 2014 ongoing; and
3. Notify Claimant in writing of its decision.



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**Alice C. Elkin**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

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

Date Mailed: **8/6/2014**

ACE / ttf

**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:

