

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

IN THE MATTER OF:



Reg. No.: 14-006473
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: August 6, 2014
County: Genesee-District 6 (Clio Rd)

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 August 6, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED].

ISSUE

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 owns a mobile home, which is situated on a lot within a mobile home park for which she pays rent of [REDACTED] per month.
3. Claimant shares the home with a gentleman who shares the cost of the lot rent and utilities equally with her, resulting in Claimant receiving [REDACTED] per month from him.
4. The Department adjusted Claimant's FAP budget to reflect [REDACTED] in self-employment income each month, resulting in her receiving FAP of \$113 per month beginning July 1, 2014. (Exhibit 1 Page 16.)

5. On June 24, 2014, the Department received Claimant's hearing request.

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.

Claimant purchased a mobile home in a park and paid cash for it. She has no mortgage or land contract expense, but she pays lot rent of [REDACTED] per month. She has utility bills, which she testified include water at [REDACTED] per month, electricity of [REDACTED] per month, and gas for heat ranging from [REDACTED] per month. When her roommate applied for FAP, he identified Claimant as his landlord and stated he pays her [REDACTED] per month for rent, which includes heating/cooling, electric, water/sewer, cooking fuel, trash removal, and telephone. (Exhibit 1 Pages 2 -3.)

As stated in BEM 504 (7/1/14), p. 2, rental income is considered income to the Claimant.

In-home rental is when a landlord rents out part of his own dwelling to another individual.

See Other Rental Income below when a landlord rents out a separate apartment in his dwelling or a separate building.

Bridges counts the gross rent payment minus expenses as earned income from self-employment. Bridges allows the higher of the following:

- 60% of the rental payment.
- Actual rental expenses if the landlord chooses to claim and verify the expenses.

Expenses must be both of the following:

- Clearly expenses of the rental unit (for example expenses the landlord would **not** have if **not** renting out part of his dwelling).
- Included in the list of allowable rental expenses below.

Bridges uses the standard percentage for expenses if either of the following:

- The landlord chooses not to report actual expenses.
- The landlord does not verify reported expenses exceeding the standard percentage.

When a landlord chooses to report actual expenses for in-home rental or other rental income, Bridges uses the following to determine what expenses are allowable and should be entered in Bridges.

Expenses must be the landlord's obligation and must solely be expenses of the rental property to be allowed. Allowable expenses may include:

- Real estate insurance.
- Repairs.
- Heat.
- Utilities.
- Property taxes.
- Lawn care.
- Snow removal.
- Furniture.
- Advertising for renters.
- Interest and escrow portions of mortgage or land contract payment.

Bridges will **not** deduct expenses exceeding the gross rental income (a loss) from other types of income.

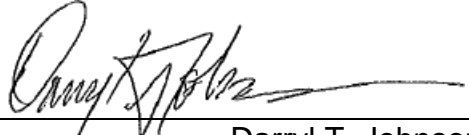
The Department counted 40% of the rental income received by Claimant from the roommate in her FAP budget. That resulted in an additional [REDACTED] being counted as income.

When the Department calculates a FAP budget, it takes into account, among many other factors, the earned and unearned income the Claimant receives, and costs of housing-related expenses. The Claimant did not dispute the amounts used by the Department in her budget. She did not verify the expenses, so the Department reduced her rental income by 60% to account for expenses, and used the remaining 40% as rental income. There is no evidence that the Department erred in its calculation of Claimant's FAP benefits after taking into account her monthly income and expenses.

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 acted in accordance with Department policy when it decreased Claimant's Food Assistance Program benefits.

DECISION AND ORDER

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


Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **8/7/2014**

Date Mailed: **8/7/2014**

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:

