

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No.: 14-007311
Issue No(s): 3001
Case No.: ██████████
Hearing Date: September 10, 2014
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 September 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████ ██████, Family Independence Manager.

ISSUE

Did the Department properly deny Claimant's Food Assistance Program (FAP) application on the basis that her income exceeded the limit?

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 June 30, 2014, Claimant submitted an application for FAP benefits.
2. On July 2, 2014, the Department sent Claimant a Notice of Case Action informing her that she was denied FAP benefits on the basis that her income exceeded the limit. (Exhibit 1)
3. On July 15, 2014, Claimant submitted a hearing request 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.

Although the Notice of Case Action indicates that Claimant's application was denied on the basis that her gross income exceeded the limit, the budget provided by the Department for review is a FAP EDG Net Income Results Budget. For FAP purposes, the gross income limit for Claimant's confirmed group size of one is \$1245 and the net income limit is \$958. RFT 250 (December 2013), p.1.

In determining a client's eligibility for FAP, all countable gross earned and unearned income available to the client must be considered. BEM 500 (July 2014), pp. 1 – 4. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2014), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 5.

At the hearing, the FAP EDG Net Income Results Budget was reviewed. (Exhibit 2). The Department concluded that Claimant had earned income of \$2093, which it testified came from Claimant's employment. The Department stated that it specifically considered (i) \$487.60 paid on June 5, 2014; (ii) \$487.60 paid on June 12, 2014; (iii) \$487.60 paid on June 19, 2014; and (iv) \$484.55 paid on June 26, 2014. The Department testified that based on these income amounts, Claimant was ineligible for FAP benefits, as she had excess income.

Claimant testified that with the application submitted on June 30, 2014, she provided the Department with a layoff notice, informing them that her employment would not be continuing. The Department confirmed that it received the layoff notice with the application and that the June 26, 2014 paycheck received by Claimant was listed as her last check. Claimant testified that she applied for and started receiving unemployment compensation benefits beginning July 1, 2014, which the Department also confirmed. Based on the evidence, at the time of application, Claimant no longer had income from employment as defined by BEM 500, p.4.

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 because the Department was aware at the time of application that Claimant's income from employment was not expected to continue, the Department did not act in accordance with Department policy when it included income that Claimant no longer received in making the determination that she had excess income and was ineligible for 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. Register and process Claimant's June 30, 2014, application for FAP benefits;
2. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from the date of application, ongoing; and
3. Notify Claimant in writing of its decision.



Zainab Baydoun

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

Date Signed: September 17, 2014

Date Mailed: September 17, 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

ZB/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]