

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

IN THE MATTER OF:



Reg. No.: 14-009976
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: September 15, 2014
County: WAYNE PATH POT (93)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 three way telephone hearing was held on September 15, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. The Department did not appear and the hearing was conducted in the Department's absence.

ISSUE

Did the Department properly close the Claimant's Food Assistance case?

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 Department was properly notified of the hearing and was contacted after the Claimant called in. The Department never called in on the hearing so a hearing was conducted beginning at 11:10 am, one hour after the hearing was to begin, in the Department's absence.
2. The Department issued a Notice of Case Action on August 1, 2014, closing the Claimant's FAP case due to Claimant's income exceeding the Net Income limit.
3. The Claimant requested a hearing on August 15, 2014 protesting the closure of her FAP case.

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.

Additionally, in this case the Claimant credibly testified that her FAP group size was a group size of 4, not 5. The Department continued to include ██████████ an adult, in the FAP group despite the Claimant verifying with the Department that ██████████ was not a group member. The Claimant provided verification to the Department of an identification for ██████████, which indicated an address other than the Claimant's. The Claimant also provided a check stub, although from 2013, that indicated an address other than the Claimant's. The Claimant's testimony was credible, and she was knowledgeable about the information she provided the Department. Notwithstanding the proof provided to the Department that ██████████ was not a group member, the Department calculated the Claimant's FAP benefits and included income from ██████████ causing the Claimant's income to exceed the net income limit, and continued to include ██████████ in the FAP group.

Based upon the Claimant's credible and unrebutted testimony, the Department did not correctly determine the Claimant's Food Assistance for several reasons. The group size was 4 not 5, the income should have been only based upon the Claimant's income, and the Department should have removed ██████████ from the FAP group. The Department did not include a utility allowance, as the Claimant pays electricity. The Claimant credibly testified that she pays an electric bill and thus if not already verified, the Department must verify same when re-determining the Claimant's FAP benefits.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Claimant's FAP case due to excess net income and included ██████████ as a FAP group member and included his income.

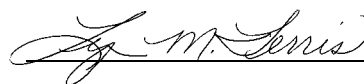
DECISION AND ORDER

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. The Department shall reinstate the Claimant's FAP case as of the date of closure August 1, 2014, and shall process the case in accordance with this decision and determine eligibility.
2. The Department shall issue a FAP supplement to the Claimant for FAP benefits from the date of closure ongoing.



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

Date Signed: **9/16/2014**

Date Mailed: **9/16/2014**

LMF/tm

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:

