

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

IN THE MATTER OF:



Reg. No.: 14-013836
Issue No.: 3008
Case No.:
Hearing Date: November 12, 2014
County: WAYNE-57 (CONNER)

ADMINISTRATIVE LAW JUDGE: Robert Chavez

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 November 12, 2014, from Detroit, Michigan. Participants on behalf of Claimant included . Participants on behalf of the Department of Human Services (Department) included , APS, and , APW.

ISSUE

Due to excess income, did the Department properly deny the Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Medical Assistance (MA)? | |

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 applied for received:
 FIP FAP MA SDA CDC
benefits.
2. On November 1, 2014, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to excess income.

3. On October 1, 2014, the Department sent Claimant its decision.
4. On October 10, 2014, Claimant filed a hearing request, protesting 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), 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.

Additionally, claimant's FAP budget used [REDACTED] in SSI income to determine claimant's FAP benefit amount. However, per the submitted SOLQ, claimant is only receiving a gross SSI payment of \$ [REDACTED]0; the rest of claimant's SSI amount is being recouped due to an overpayment.

Per policy found in BEM 500, amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income. There is no evidence that claimant meets one of the requirements in BEM 500 that would allow an overpayment to be counted as gross income.

Therefore, as the Department used claimant's full SSI amount in claimant's FAP budget, and as policy specifically states to exclude any amount that is currently being recouped, the Department erred when it used claimant's full SSI amount in 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 did not exclude claimant's overpayment recoupment from claimant's unearned income budgeting.
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it .

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. Recalculate claimant's FAP budget, excluding any amount of unearned income currently being recouped by the SSA for overpayment.



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

Date Signed: **11/26/2014**

Date Mailed: **11/26/2014**

RJC / 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:

