

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

IN THE MATTER OF:



Reg. No.: 14-005174
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: July 30, 2014
County: Oakland-District 4 (North Saginaw)

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 July 30, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED].

ISSUE

Due to excess income, did the Department properly close Claimant's case for Food Assistance Program (FAP)?

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 received FAP.
2. On June 11, 2014, the Department closed Claimant's case due to excess income. See Notice of Case Action (NCA) (Exhibit 1 Pages 5-11).
3. On June 20, 2014, the Department received Claimant's 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.

When the Department calculates a FAP budget and eligibility for medical assistance it takes into account, among many other factors, the earned and unearned income the Claimant receives. Exhibit 1, Pages 12-13 is the FAP budget based upon her actual income. The Department previously was not including Claimant's income in determining her FAP budget.

Claimant provided documentation of several on-going expenses she pays each month. See Exhibit A. She has shown monthly "bills" of [REDACTED]. She earns [REDACTED] per hour, or [REDACTED] in each bi-weekly period. Her net pay is [REDACTED] bi-weekly.

Per BEM 505, "A standard monthly amount must be determined for each income source used in the budget." "Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

"Multiply weekly income by 4.3.

"Multiply amounts received every two weeks by 2.15.

"Add amounts received twice a month."

To convert the group members' bi-weekly incomes to monthly, the total is divided by the number of checks (two in this case) and then multiplied by 2.15. The Claimant's monthly income is [REDACTED]. When the Department calculated her earnings for the budget, she exceeded the net income limit of [REDACTED]. (Exhibit 1 Page 13.)

Claimant stated in her hearing request (Exhibit 1 Page 3) that she has been receiving FAP for the past four years, even though her income was remained relatively constant. During the hearing it was mentioned to her that, even if benefits are issued improperly due to Department error, the Department can seek recoupment of those excess benefits.

It is not within the scope of the Administrative Law Judge's authority to create new guidelines, eligibility criteria, or deductibles that the Department is to use. The issues that can be decided are whether the Department followed policy with respect to each program, based upon the existing rules, laws, policies, etc.

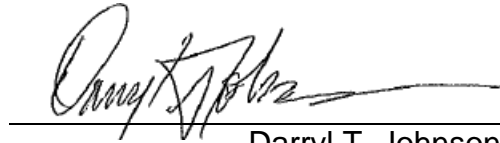
The Claimant did not dispute the amounts used by the Department in her budget. There is no evidence that the Department erred in its calculation of Claimant's FAP benefits after taking into account her monthly earned income and expenses.

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 closed 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: **8/1/2014**

Date Mailed: **8/1/2014**

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:

