

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

IN THE MATTER OF:



Reg. No.: 14-006355
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: August 5, 2014
County: SSPC-WEST

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 5, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly the Claimant's Food Assistance Program (FAP) eligibility?

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 May 20, 2014, the Claimant applied for Food Assistance Program (FAP) benefits.
2. The Claimant receives monthly earned income in the gross monthly amount of \$1,250.
3. On June 17, 2014, the Department notified the Claimant that she was eligible for a monthly Food Assistance Program (FAP) allotment of \$ [REDACTED] as of June 1, 2014.
4. On July 1, 2014, the Department received the Claimant's request for a hearing, protesting the amount of her Food Assistance Program (FAP) allotment.

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.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2013).

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (July 1, 2013), pp 6-7.

On May 20, 2014, the Claimant applied for Food Assistance Program (FAP) benefits as a group of one. The Department determined the Claimant's eligibility for benefits from the information provided by the Claimant.

The Claimant is employed and receives monthly earned income in the gross monthly amount of \$█. This amount was determined by multiplying her average gross bi-weekly earnings by the 2.15 conversion factor. The Claimant's adjusted gross income of \$█ was determined by subtracting the \$█ standard deduction from her total monthly income along with a 20% earned income deduction. The Claimant's excess shelter deduction of \$█ was determined by adding her monthly shelter expenses of \$█ to her monthly electric and telephone expenses of \$█ and \$█ and then subtracting 50% of her adjusted gross income.

The Claimant's net income of \$█ was determined by subtracting her excess shelter deduction from her adjusted gross income. A Food Assistance Program (FAP) benefit group of one with a net income of \$█ is entitled to a \$█ monthly allotment of Food Assistance Program (FAP). Department of Human Services Reference Table Manual (RFT) 261 (December 1, 2013).

The Claimant argued that the Department should not use her gross earnings to determine her eligibility for benefits because her gross earnings do not reflect the resources available to her. The Claimant argued that her income is not enough to provide for herself after paying her other bills.


Department policy accounts for expenses and deductions from gross earnings in its eligibility determinations, and the Claimant is not entitled to benefits other than provided by Department policy.

The Claimant's grievance centers on dissatisfaction with the Department's current policy. Administrative Law Judges have no authority to make exceptions to the Department policy set out in the program manuals. Administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

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 acted in accordance with Department policy when it determined the Claimant's monthly allotment of Food Assistance Program (FAP) benefits.

DECISION AND ORDER

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



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

Date Signed: **8/6/2014**

Date Mailed: **8/6/2014**

KS/las

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:

