

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

**IN THE MATTER OF:**

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

Reg. No.: 14-007555  
Issue No.: 3001  
Case No.: ██████████  
Hearing Date: AUGUST 21, 2014  
County: WAYNE-DISTRICT 35

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

**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 21, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ Hearing Facilitator.

**ISSUE**

Did the Department properly close Claimant's Food Assistance Program (FAP) case for excess net income?

**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 was an ongoing recipient of FAP benefits.
2. Claimant's FAP group consists of Claimant, her husband, and their adult daughter.
3. In July 2014, the Department processed Claimant's Semi-Annual Contact Report.
4. On July 11, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP case would close effective August 1, 2014 because her group's net income exceeded the applicable net income limit.
5. On July 18, 2014, Claimant requested a hearing 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.

Additionally, Claimant requested a hearing disputing the July 11, 2014 Notice of Case Action closing her FAP case effective August 1, 2014 because her group's net income exceeded the applicable net income limit. Claimant's FAP group has three members: Claimant, her husband, and their adult daughter. BEM 212 (July 2014), p. 1. Claimant's daughter is a senior/disabled/veteran (SDV) member of Claimant's FAP group. See BEM 550 (February 2014), p. 1. A FAP group with an SDV member must have income below the net income limits. BEM 550, p. 1. For a FAP group of three, the net income for FAP eligibility is \$1628. RFT 250 (December 2013), p. 1, column B.

The Department did not present a net income budget showing the calculation of Claimant's household's net income. Therefore, the budget information provided in the July 11, 2014 Notice of Case Action was reviewed with Claimant at the hearing. The Notice shows that the Department properly applied the \$151 standard deduction applicable to a three-person FAP group and the \$553 heat and utility standard, the highest standard applicable to a FAP group with responsibility to pay utility expenses. BEM 556 (July 2013), pp. 3-4; RFT 255 (December 2013), p. 1; BEM 544 (May 2014), pp. 14-19. Claimant verified the unearned income amount indicated in the Notice and confirmed that her group did not have any child support or day care expenses and her daughter, the SDV member of the group, did not have any verified out-of-pocket medical expenses over \$35. BEM 554, pp. 6-12.

Two issues arose during the hearing concerning the figures used by the Department in calculating Claimant's FAP eligibility: (i) the calculation of Claimant's FAP group's earned income and (ii) Claimant's monthly housing costs.

The Notice showed gross monthly earned income of \$3024. The Department testified that this income was based on Claimant's husband's employment income at (i) [REDACTED] (ii) [REDACTED]. The Department testified that in prospecting Claimant's husband's employment income from [REDACTED], the Department considered his weekly pay received in January 2014 as shown on the Work Number, the Department-accessible database containing employer-reported earnings for Department clients.

However, in prospecting income, the Department is required to use income from the past thirty 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 (July 2014), p. 5. If income received in the past 30 days is not a good indicator of future income, and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month, the Department must use income from the past 60 or 90 days for fluctuating or irregular income. BEM 505, pp. 5-6. Whenever possible, the Department is required to seek input from the client to establish an estimate. BEM 505, p. 2. Because the Department was processing a June 2014 application, it did not act in accordance with Department policy when it relied on January 2014 pay data in calculating Claimant's husband's employment income from [REDACTED].

Claimant's husband was also employed at the [REDACTED]. Although it appears that this income was not previously included in Claimant's FAP budget, Claimant credibly testified that she had timely notified her worker by phone of her husband's start of this employment in January 2014. The Department testified that in calculating Claimant's husband's gross income from the [REDACTED] employment, it considered \$800 in gross biweekly pay. Claimant testified, and the Department confirmed, that Claimant did not identify her husband's [REDACTED] income in the Semi-Annual Contact Report she completed. Claimant further testified that the Department did not request any verifications of this income but testified that her husband earned \$7.40 per hour working about 3 eight-hour shifts weekly. The Department was unable to specify where it obtained the information it used to calculate the [REDACTED] income, and its calculation was nearly double a calculation based on Claimant's estimate of her husband's [REDACTED] income. Under these facts, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy in calculating Claimant's husband's employment income from [REDACTED].

The Notice of Case Action showed that the Department considered \$1169.08 in monthly shelter expenses based on shelter verifications provided in February 2014. During the hearing, Claimant credibly established that she had submitted updated mortgage vouchers showing increased monthly mortgage obligations in response to a May 24, 2014 Verification Checklist. Therefore, the Department did not act in accordance with Department policy when it relied on \$1169.08 in housing costs in determining Claimant's FAP eligibility.

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 did not failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP case for excess net 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. Reinstate Claimant's FAP case effective August 1, 2014;
2. Reprocess Claimant's FAP eligibility for August 1, 2014 ongoing;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from August 1, 2014 ongoing; and
4. Notify Claimant in writing of its decision.



**Alice C. Elkin**

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

Date Signed: **8/25/2014**

Date Mailed: **8/25/2014**

ACE / tlf

**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:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]