

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

IN THE MATTER OF:



Reg. No.: 14-007923
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: August 28, 2014
County: INGHAM

ADMINISTRATIVE LAW JUDGE: Darryl 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 August 28, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED]. [REDACTED] was provided by Language Link and interpreted between English and Burmese.

ISSUE

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

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 on-going FAP recipient.
2. Claimant's wife, Thein Ge, began employment on June 27, 2014; and when her income was added to the FAP budget, the group's income exceeded the limit, causing Claimant's FAP to be reduced to \$37 per month for July 2014, and closed effective August 1, 2014.
3. On July 27, 2014, the Department received Claimant's hearing request.

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.

When the Department calculates a FAP budget, it takes into account, among many other factors, the earned and unearned income the Claimant receives. Exhibit 1, Page 1, is an employment verification reporting Claimant's wife was working 25 hours per week at \$8 per hour with a first pay date of July 11, 2014. Exhibit 1, Pages 2-3, is a report reflecting Claimant's income from employment. He has been working an average of 44 hours per weekly pay cycle, and earning \$10 per hour. Exhibit 1, Page 4, is the FAP budget prior to the wife's employment. Exhibit 1, Page 6, is the FAP budget for July 2014, counting the wife's income for a partial month. Exhibit 1, Page 8, is the FAP budget for August 2014 onward, counting both spouses' income. Exhibit 1, Pages 10-12, is the Notice of Case Action dated July 11, 2014.

Claimant testified that his wife is no longer working. The issue is what their status was at the time the Department took action. Also, he did not previously report to the Department any changes in her employment.

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.

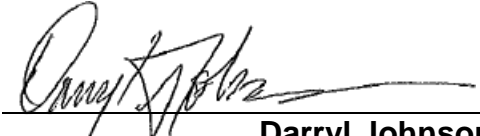
The Claimant did not dispute the amounts used by the Department in his budget, other than the current employment status of his wife. There is no evidence that the Department erred in its calculation of Claimant's FAP benefits after taking into account the group's income and expenses.

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 decreased and then closed Claimant's Food Assistance Program benefits.

It will be noted in closing that the interpreter who was provided was unskilled at interpreting. The Department presumably does not have control over who is available to interpret, and it could be that Burmese interpreters are difficult to find. This hearing would likely have been much more effective if it had been held in-person, and would certainly have been much more effective if a qualified interpreter had been available.

DECISION AND ORDER

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


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

Date Signed: **9/3/2014**

Date Mailed: **9/3/2014**

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:

