

**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.: 14-009283
Issue No.: 3001
Case No.: ██████████
Hearing Date: September 8, 2014
County: Wayne (76-Gratiot/7 Mile)

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 September 8, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ ██████████
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ISSUE

Did the Department properly deny Claimant's application for 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. On July 2, 2014, Claimant applied for FAP benefits for herself and her three children.
2. On July 25, 2014, the Department sent Claimant a Notice of Case Action notifying her that her application was denied because her income exceeded the FAP income limit.
3. On July 29, 2014, Claimant filed a request for 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 disputed the Department's July 25, 2014, Notice of Case Action finding that she was not income-eligible for FAP benefits. At the hearing, the Department explained that Claimant's net income exceeded the applicable net income limit for her group. There are four members to Claimant's group: Claimant and her three children. BEM 212 (July 2014), p. 1. Based on a group size of four, the net income limit for FAP eligibility is \$1,963. RFT 250 (December 2013), p. 1.

The Department provided a FAP net income budget showing that it calculated Claimant's net income as \$2,418. The budget was reviewed with Claimant. The budget showed that Claimant had monthly earned income totaling \$2,110 from her employment [REDACTED]. In prospecting income based on past 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 and should discard any pay that 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.

At the hearing, the Department acknowledged that it should have considered Claimant's employment income for July 2014, which it had access to at the time it certified and denied Claimant's application on July 25, 2014. The Department further acknowledged that Claimant's July 2014 employment income was significantly less than her May 2014 and June 2014 income. Claimant explained that her May 14, 2014, pay was considerably higher than her other biweekly pay because it involved a bonus pay equal to twice her usual pay that occurred only once a year. Because this pay was unusual and does not reflect the normal, expected pay amounts, it would be discarded in any prospective calculation of Claimant's earned income.

Because the Department had access to Claimant's July 2014 income at the time it calculated her income eligibility for FAP benefits but did not consider this income, the Department failed to act in accordance with Department policy when it calculated her gross monthly earned income.

The FAP net income budget also showed that Claimant received \$1,085 in unearned income. Claimant acknowledged that each of her children received \$47 in Retirement, Survivors and Disability Insurance (RSDI) benefits monthly and that one child also received monthly Supplemental Security Income (SSI) of \$598, which decreased to \$525 effective September 1, 2014. At the time of the July 2, 2014, calculation, the sum of the household's RSDI and SSI income totaled \$739, leaving \$346 in unearned income. The Department testified that the household also received child support for each of the children. However, the Department presented conflicting evidence concerning the amount of monthly child support income received by Claimant. Even considering the evidence in the light most favorable to the Department, the evidence presented fails to establish that the child support income totaled \$346. Therefore, the Department has failed to satisfy its burden of showing that it properly calculated Claimant's household's unearned income.

The deductions to income on the budget were also reviewed. Because Claimant has a child who is a senior/disabled/veteran (SDV) member of her household, Claimant was eligible for the following deductions to income:

- Dependent care expense.
- Medical expenses in excess of \$35 for the SDV member of the group.
- Excess shelter deduction, based on monthly shelter expenses and the applicable utility standard.
- Court-ordered child support and arrearages paid to non-household members.
- Earned income deduction equal to 20% of the group's earned income.
- A standard deduction based on the FAP group size.

BEM 554 (May 2014), pp. 1, 14-22; BEM 556 (July 2013), p. 3; RFT 255 (December 2013), p. 1.

Because the earned income was improperly calculated, the earned income deduction shown on the budget is incorrect. The budget showed a standard deduction of \$162, the applicable standard deduction based on her four-person group size. RFT 255, p. 1. Claimant confirmed that she had no child support expenses. She also confirmed that she paid monthly rent of \$175, and the budget shows that the Department applied the correct shelter expense and \$553 heat and utility standard, the most favorable standard applicable to a client who has responsibility for heat and electric separate from rent. BEM 554, pp. 14-22. The Department testified that Claimant's group had full Medicaid

coverage and no verified out-of-pocket medical expenses had been presented to the Department.

The budget showed monthly dependent care expenses of \$200. The Department based its calculation on a statement from Claimant's day care provider that Claimant paid her \$100 every two weeks for child care. For expenses paid every other week, the average expense must be multiplied by 2.15. BEM 554, pp. 3-4. Because the Department only multiplied the expense by 2, the Department did not act in accordance with Department policy when it calculated Claimant's dependent care deduction.

Because the Department did not properly calculate Claimant's earned and unearned income and her child care deduction, and changes to these figures will result in changes to the earned income deduction and the excess shelter deduction, 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 act in accordance with Department policy when it denied Claimant's FAP application.

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. Reregister and reprocess Claimant's July 2, 2014 FAP application;
2. Issue supplements to Claimant for any FAP benefits she is eligible to receive but did not from July 2, 2014, ongoing; and
3. Notify Claimant in writing of its decision in a DHS-1605.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **9/10/2014**

Date Mailed: **9/10/2014**

ACE / pf

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]