

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-011997
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: October 22, 2014
County: MIDLAND

ADMINISTRATIVE LAW JUDGE: Susanne Harris

HEARING DECISION

Following the 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, and in-person hearing was held on October 22, 2014, from Midland, Michigan. Participants on behalf of the Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist, [REDACTED] and Family Independence Manager, [REDACTED].

ISSUE

Did the Department properly close the Claimant's case for Food Assistance Program (FAP) due to excess 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. The Claimant received FAP benefits.
2. On September 17, 2014, the Department closed Claimant's case due to excess income.
3. On September 17, 2014, the Department sent Claimant its decision.
4. On September 17, 2014, Claimant filed a request for hearing, 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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

In this case, the Claimant is self-employed and there were four different [REDACTED] that were not allowed in the Claimant's FAP budget for different reasons. The Claimant protested in his hearing request that he was not allowed a business expense for depreciation on his truck. Bridges Eligibility Manual (BEM) 502 (2014) provides that depreciation on business equipment is not allowed. This was pointed out to the Claimant during the hearing. The Claimant did then argue that his truck was not a piece of business equipment in his [REDACTED]. The Claimant conceded that he used the truck to haul materials for his [REDACTED] and that he did not use it as a [REDACTED]. The Claimant's argument that the truck is not business equipment is not at all persuasive. The Administrative Law Judge determines that the depreciation was properly disallowed as a business expense deduction on the Claimant's FAP budget.

The next disallowed self-employment expense was the Claimant's running log of his expense for gas. This expense totaled \$ [REDACTED]. Indeed, the verification that the Claimant submitted is a running log of what he asserts he [REDACTED]. They are not actual receipts indicating from which business the gas was purchased and what date and time the gas was purchased. Furthermore, every expenditure on that running log is of an even dollar amount. The Claimant testified that he always fills up to the exact dollar amount. BEM 502, p.7, provides that self-employment expenses be verified with receipts. The Claimant's running log of his gas expenditures are not receipts. As such, the Administrative Law Judge determines that the Department properly disallowed the Claimant's gas expenses which were not supported by receipts, but rather a running log of what the Claimant asserted were his gas expenditures.

The next disallowed self-employment expense was for materials with a company called [REDACTED]. Some expenses with [REDACTED] were allowed because actual receipts for materials were provided. However, the Claimant also submitted receipts of payments made on a [REDACTED] and some of these receipts are dated in the year [REDACTED]. The Department credibly testified that it was unable to determine in what year the expense was actually incurred, which could very well be different from the year in which the Claimant made the payment reflected on such a receipt. The Administrative Law Judge determines that all of the disallowed [REDACTED] receipts of payments on the line of

credit were properly disallowed as they are not receipts of items purchased. Furthermore, this Administrative Law Judge questioned the Claimant during the hearing as to how materials in his construction business were a business expense. The Administrative Law Judge did not understand how materials constitute a business expense because presumably, the Claimant's business passes the cost of the materials onto the customer. The Claimant did also not explain that to the Administrative Law Judge. The Administrative Law Judge is left to wonder whether the allowed expenses based on the actual receipts were even proper and correct according to Department policy. The Administrative Law Judge does not decide that issue as it is not before her.

The last disallowed business expense was the Claimant's interest expense on his [REDACTED]. As verification of that expense, the Claimant submitted his federal income tax return. While the income tax return can be proper verification of [REDACTED] income; BEM 502, p. 7, clearly requires receipts as proper verification of expenses, and in this case a payment coupon displaying the amount of interest paid coupled with evidence that the payment/payments have been made would clearly verify what amount of interest the Claimant is asserting as a business expense. The Administrative Law Judge determines that the Department properly denied the Claimant's [REDACTED] interest as a business expense when the only verification of such interest provided was his [REDACTED].

Additionally, Bridges Administrative Manual (BAM) 210 (2014), p. 14, provides that verifications are due the same date as the redetermination/review interview or the date the packet is due. In this case, the Claimant protested that he was not notified in advance, and before his redetermination was complete, that some of his verifications were not sufficient as being identifiable.

During the hearing, BEM 502 (2014) was reviewed with the Claimant. The Claimant protested that he was not informed by his worker that the principal, as well as the interest paid, on his [REDACTED] constitutes a valid [REDACTED] n. The Claimant asserted that the Department should inform him somehow of every business expense that he is eligible to take for his FAP budget. The record contains almost [REDACTED]. The Department's policy contains no provision that this Administrative Law Judge is aware of which would provide that the Department is to inform the Claimant of every eligible business expense that he can take in his FAP budget. Indeed, the Claimant was informed during the hearing that the Department's policy is made available to him on the internet and he could research the policy regarding self-employment and expenses if he wanted to.

The FAP budget in evidence was only contested as to the self-employment expenses disallowed. The FAP budget evidence establishes that the Claimant's income far exceeds both the gross and net income levels to be eligible for FAP.

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 took action to close the Claimant's FAP case for excess income.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: **10/24/2014**

Date Mailed: **10/28/2014**

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

SEH / tb

cc:

