

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-015882
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: December 16, 2014
County: Genesee-District 2

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 December 16, 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]

ISSUE

Did the Department properly reduce 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. On March 24, 2014, Claimant requested a hearing because her FAP benefits were reduced.
3. The Department restored her FAP to the prior amount while her hearing request was pending.
4. On August 29, 2014, Claimant withdrew her hearing request.
5. On October 27, 2014, the Department mailed to Claimant a Notice of Case Action (NCA) informing her that her FAP would be reduced to \$ [REDACTED] per month beginning November 1, 2014.
6. On November 6, 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. The testimony during the hearing established that Claimant's group has employment income. Her daughter works part-time at [REDACTED]. The Department verified wages of \$ [REDACTED] and \$ [REDACTED] for three bi-weekly pay periods. Those wages total \$ [REDACTED] or an average of \$ [REDACTED] per pay period. When that is multiplied by 2.15 to determine a monthly amount, the daughter has earned income \$ [REDACTED] per month. The Department verified that Claimant had received \$ [REDACTED] weekly for worker's compensation, and that is the equivalent of \$ [REDACTED] per month when the weekly amount is multiplied by 4.3. She also received child support of \$ [REDACTED] monthly in the three months preceding the October review. Her daughter receives \$ [REDACTED] per month from the Family Independence Program (FIP) which counts as unearned income. To summarize her group, it receives earned income of \$ [REDACTED] per month, and unearned income of \$ [REDACTED]. In the NCA, the Department based the FAP budget on earned income of \$ [REDACTED] per month and unearned income of \$ [REDACTED] per month. Any error was in Claimant's favor.

Claimant did not dispute the amounts the Department used in calculating her FAP. 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.

There is no evidence that the Department erred in its calculation of Claimant's FAP benefits after taking into account her monthly unearned income and expenses. The Department should have reduced her FAP when she withdrew her original hearing request since her income and expenses were established at that time.

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 Claimant's Food Assistance Program benefits.

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: **12/17/2014**

Date Mailed: **12/17/2014**

DJ/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 48909-8139

cc:

