

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-015989
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: December 16, 2014
County: Monroe

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 three-way 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. Claimant provided the Department with copies of pay stubs on October 19, 2014.
3. The Department found that Claimant's income had increased and, on October 20, 2014, it mailed to Claimant a Notice of Case Action (NCA) informing her that her FAP would be decreased to \$ [REDACTED] per month beginning November 1, 2014.
4. The Department received Claimant's hearing request on October 24, 2014.

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 was receiving RSDI of \$ [REDACTED] per month and SSI of \$ [REDACTED] per month, for a total unearned income of \$ [REDACTED]. She also works in a school cafeteria at \$ [REDACTED] per hour for [REDACTED] or more hours per week. Paychecks are provided in Exhibit 1 at pages 8-9. She had gross income of \$ [REDACTED] and \$ [REDACTED] for two consecutive bi-weekly periods. Her gross was \$ [REDACTED] or an average of \$ [REDACTED] bi-weekly. When that is multiplied by the factor of 2.15, her monthly gross income is \$ [REDACTED].

Claimant did not dispute the amounts the Department used in calculating her income and 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 evidence that the Department based her FAP upon earned and unearned income. It appears to have properly calculated her earned income. However, it counted \$ [REDACTED] in unearned income, but the evidence only establishes that she receives \$ [REDACTED] in unearned income. The Department has over-stated her income by \$ [REDACTED].

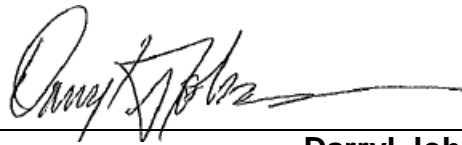
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department has not satisfied its burden of showing that it acted in accordance with Department policy when it decreased Claimant's Food Assistance Program benefits.

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. Redetermine Claimant's FAP benefit eligibility, effective November 1, 2014;
2. Issue a supplement to Claimant for any benefits improperly not issued.



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:

