

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-016262
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: December 18, 2014
County: SAGINAW

ADMINISTRATIVE LAW JUDGE: Susanne E. 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, a telephone hearing was held on December 18, 2014, from Lansing, Michigan. Participants on behalf of the Claimant included her husband, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager, [REDACTED].

ISSUE

Did the Department properly take action to reduce the Claimant's monthly Food Assistance Program (FAP) allotment?

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 was a recipient of monthly FAP benefits in the amount of \$ [REDACTED]
2. On August 12, 2014, a DHS-1010, Redetermination was issued to review the Claimant's medical coverage.
3. The Claimant's husband was unemployed from December 2013 until June 2014.
4. On August 6, 2014, the Claimant received \$ [REDACTED] worth of self-employment income. The Claimant reported this to the Department
5. The Department's worker allowed a 25% deduction for self-employment expenses and then did prospect the Claimant's income for August for future months in the amount of \$ [REDACTED]
6. October 2, 2014, the Claimant was notified that her monthly allotment would be reduced to \$ [REDACTED] effective October 15, 2014.

7. On October 15, 2014, the Department received the Claimant's written hearing request protesting the reduction in her FAP allotment.

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, Bridges Eligibility Manual (BEM) 505 (2014) p. 2, provides that the Department's worker is to use actual gross income amounts received for past month benefits converting to a standard monthly amount, when appropriate. The Department's worker is to use income from the past 30 days, if it appears to accurately reflect what is expected to be received in the benefit month. The Department's worker is to discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. When income is received in one month but is intended to cover several months, the Department's worker is to establish a monthly average amount if the benefit month is one of the months covered by the income.

In this case, the Claimant's husband testified that the \$ [REDACTED] for the contract in August was unusual income as he has never made more than over \$ [REDACTED] a year. Indeed, the Claimant's husband was unemployed from December 2013 until June 2014. The Administrative Law Judge concludes that when the Department's worker prospectively applied the Claimant's \$ [REDACTED] as if it were regular income, the Department was not acting in accordance with its own policy.

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 took action to reduce the Claimant's monthly FAP allotment.

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 the Claimant eligibility for FAP back to October 13, 2014, and
2. Issue the Claimant any supplement she may thereafter be due.



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

Date Signed: **12/22/2014**

Date Mailed: **12/22/2014**

SEH/hj

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:

