

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-016676
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: January 6, 2015
County: Oakland-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 January 6, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Assistance Payments Worker [REDACTED].

ISSUE

Due to excess income, did the Department properly deny the Claimant's application for Food Assistance Program (FAP)?

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 applied for FAP benefits.
2. On October 24, 2014, the Department denied Claimant's application due to excess income.
3. On October 24, 2014, the Department sent Claimant its decision.
4. On November 18, 2014, Claimant filed a hearing request, 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 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 and eligibility for medical assistance it takes into account, among many other factors, the earned and unearned income the Claimant receives. The Department produced evidence substantiating the earned income Claimant received from two jobs, as well as unearned income that the group received from Supplemental Security Income and Child Support. Claimant testified that, while she was working two jobs, one of those jobs was at a football stadium and the job only lasted from August through December. While that might be true, she had the income at the time of her application and Department properly included it. She also testified that she expected her child support to end in November when her child's father would be laid off from work. Again, while that might be true, she had the income for the three months preceding her application.

Per BEM 505, "A standard monthly amount must be determined for each income source used in the budget." "Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

"Multiply weekly income by 4.3.

"Multiply amounts received every two weeks by 2.15.

"Add amounts received twice a month."

To convert the group members' bi-weekly incomes to monthly, the total is divided by the number of checks and then multiplied by 2.15.

Child support is considered "unearned income." See BEM 503. Per BEM 505, child support is generally averaged over a three month period if the amount of income fluctuates. "Use the average of child support payments received in the past three calendar months, unless changes are expected. Include the current month if all payments expected for the month have been received. Do not include amounts that are unusual and not expected to continue." The issue can center on whether the amounts are "unusual and not expected to continue." The testimony did not establish that her child support was "unusual" at the time of her application. Because it was not unusual, it was irrelevant that it was not expected to continue.

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.

The Claimant did not dispute the amounts used by the Department in her budget. There is no evidence that the Department erred in its calculation of Claimant's FAP benefits after taking into account her monthly earned income and expenses.

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 denied Claimant's application for Food Assistance Program benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/7/2015**

Date Mailed: **1/7/2015**

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:

