

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-10963
Issue No(s): 3001
Case No.: [REDACTED]
Hearing Date: December 5, 2013
County: Macomb 12

ADMINISTRATIVE LAW JUDGE: Katherine Talbot

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, telephone hearing was held on December 5, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], and [REDACTED], the Claimant's fiancé. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny the Claimant's application for 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. The Claimant applied for Food Assistance Program (FAP) benefits in October 2013.
2. The Claimant resides with [REDACTED] and [REDACTED]. They share food costs and prepare meals together. They are all part of the group.
3. The Department requested income verifications for all members of the group, including [REDACTED].
4. The Claimant and [REDACTED] provided copies of his most recent [REDACTED] on November 6, 2013. Exhibit 4.

5. On October 28, 2013 the Department sent the Claimant a notice that her application for Food Assistance Program (FAP) benefits had been denied. Exhibit 3. The Department found the Claimant's group was ineligible due to excess income. *Id.*
6. On November 5, 2013, the Department received the Claimant's Request for Hearing. The Claimant confirmed she was protesting the denial of Food Assistance Program (FAP) benefits.
7. The Claimant and [REDACTED] testified that his [REDACTED] is reduced during winter months. They wanted the Department to use a [REDACTED] to calculate [REDACTED].

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

The Claimant and [REDACTED] are members of the same group. They purchase and prepare meals together. They are members of the same group. Bridges Eligibility Manual (BEM) 212, p. 6-7.

The Department used check stubs reflecting pay for the weeks ending [REDACTED] [REDACTED] [REDACTED] [REDACTED] Exhibit 4. The Claimant asserted the income reflected in these statements was higher than normal. [REDACTED] his [REDACTED] is frequently reduced during winter months.

The Claimant wanted the department to use a [REDACTED] to calculate the income for [REDACTED]. The annual income reflected for the year 2012 was [REDACTED].

Bridges Administrative Manual (BAM) 130 states, "Income documents must correspond to the period used to determine eligibility, or benefits amount" p 2. And, Bridges Eligibility Manual (BEM) 505 "Use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month." p 5.

The income reflected on the check stubs provided by [REDACTED] show an average income of approximately [REDACTED]. See Exhibit 4. The Administrative Law Judge takes notice of the fact that the average weekly income based on the [REDACTED] is higher than the average income based on the [REDACTED]. Therefore, I find the income from the past 30 days accurately reflects what is expected to be received in the benefit month.

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 acted in accordance with Department policy when it denied the Claimant's application for Food Assistance Program (FAP) benefits.

DECISION AND ORDER

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

/s/
Katherine Talbot
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/12/13

Date Mailed: 12/13/13

NOTICE OF APPEAL: The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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.

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The Department, AHR or the Claimant 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 the hearing decision is mailed. 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

KT/tb

cc:

