

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

IN THE MATTER OF:



Reg. No.: 2014-15667
Issue No(s): 3001
Case No.: [REDACTED]
Hearing Date: January 29, 2014
County: Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 29, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly close the Claimant's Food Assistance Program (FAP) case based on income exceeding the gross income limit for the program?

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 FAP benefits.
2. On September 30, 2013, the Claimant submitted a Semi-Annual Contact Report to the Department with verification of income and expenses.
3. On November 22, 2013, a Notice of Case Action was issued to the Claimant stating the FAP case would close effective November 1, 2013 because gross income exceeds limits.
4. On December 2, 2013, the Claimant filed a request for hearing contesting the Department's action.

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 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.

For FAP, a non-categorically eligible non-Senior/Disabled/Veteran (non-SDV) FAP group must have income below the gross and net income limits. BEM 550. For a group size of two, the FAP gross income limit is \$1,681 and the net income limit is \$ [REDACTED] RFT 250. Stable and fluctuating income that is received more often than monthly is converted to a standard monthly amount. BEM 505.

Based on the income verifications the Department received with the Claimant's September 30, 2013 Semi-Annual Contact Report, the Claimant's gross monthly income was \$ [REDACTED]. Accordingly, the Claimant's gross income exceeded the FAP gross income limit of \$ [REDACTED] for the group size of two. The Eligibility Specialist confirmed that if the Claimant had been eligible, i.e. income was under the program income limits, then allowable expenses, such as child support, would have been considered in the FAP budget to determine a monthly benefit allotment. However, the policy does not allow for these expenses to be considered at the initial step of determining if the FAP group's income is under the program's gross and net income limits.

The Claimant testified that he did not feel the Department considered his child support and spousal support expenses. Additionally, the Claimant noted that the gross income was higher when he worked overtime, but overtime has since been canceled. The Claimant testified he brings home less than \$ [REDACTED] per week, which barely pay for gas and utilities. The Claimant stated his house payment is overdue. Additionally, the Claimant testified the divorce was recently finalized and the Claimant now has all three children back.


The Department submitted sufficient evidence that the determination to close the Claimant's FAP case was appropriate based on the income verifications submitted on September 30, 2013. The Claimant's gross monthly income at that time exceeded the FAP gross income limit of \$ [REDACTED] for the group size of two. Accordingly, the Department's determination to close the Claimant's FAP case must be upheld.

If he has not already done so, the Claimant may wish to re-apply for FAP and provide updated information and verifications regarding his household composition, income and expenses.

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 closed the Claimant's FAP case based on based on income exceeding the gross income limit for the program.

DECISION AND ORDER

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



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 4, 2014

Date Mailed: February 4, 2014

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.

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

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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

CL/hj

cc:

