

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

IN THE MATTER OF:



Reg. No.: 201417033
Issue No.: 2001, 2010
Case No.: [REDACTED]
Hearing Date: January 15, 2014
County: Gratiot

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 15, 2014 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] (Assistance Payments Worker).

ISSUES

Did the Department properly determine the amount of Claimant's Food Assistance Program (FAP) monthly allotment?

Did the Department properly close Claimant's Adult Medical Program (AMP) case due to excess income?

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 active for FAP and AMP.
2. Claimant had a FAP group size of 1.
3. On November 20, 2013, Claimant reported to the Department that he had new earned income from employment.
4. On December 2, 2013, Claimant informed the Department that he received earned income in the amount of [REDACTED] for the week ending November 22, 2013 and

██████████ for the week ending on November 29, 2013. At the time, Claimant stated that his average weekly prospective earned income should be ██████████.

5. On December 2, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's AMP case effective January 1, 2014 due to excess income and decreased Claimant's monthly FAP amount to ██████████ effective January 1, 2014.
6. Claimant requested a hearing to dispute the closure of his AMP case and to challenge the amount of monthly FAP benefits.

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.

The Department determines a group's benefits for a month based, in part, on a prospective income determination. BEM 505. A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation. BEM 505. The Department will obtain input from the client whenever possible to establish this best estimate amount. BEM 505. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process. BEM 505.

To prospect income, the Department will need to know: (1) the type of income and the frequency it is received (such as, weekly); (2) the day(s) of the week paid; (3) the date(s) paid; (4) the gross income amount received or expected to be received on each pay date. BEM 505.

When the income amount changes, the Department will adjust the amount(s) being budgeted for future pay periods. BEM 505. For earned income, if the rate of pay changes, but hours are expected to remain the same, the Department will use the past hours worked times the new rate of pay to determine the amount to budget for future pay periods. BEM 505. If there is a change in expected hours, but no change in the rate of pay, the Department will use the expected hours times the rate of pay to determine the amount to budget per pay period. BEM 505. If payments in the new amount have been received and they are accurate reflections of the future income, the Department will use them in the budget for future months. BEM 505.

All income is converted to a standard monthly amount. BEM 505. The Department will convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505. If the client is paid weekly, the Department multiplies the average weekly amount by **4.3**. BEM 505. If the client is paid every other week, the Department multiplies the average bi-weekly amount by **2.15**. BEM 505.

Here, Claimant disputes the Department's determination that his monthly FAP allotment, effective January 1, 2014, should be [REDACTED]. The Department, on the other hand, takes the position that his FAP amount was based on his statement that his weekly prospective earned income would be [REDACTED]. Claimant does not dispute making this statement, but contends that this estimate turned out later to be inaccurate. Claimant further states that he works for his father as an automobile mechanic and is paid cash on a per job basis. According to Claimant, his income fluctuates and is inconsistent each month.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has reviewed the entire record in this matter. The record reveals that Claimant was receiving monthly earned income from employment in the amount of [REDACTED] at the time relevant to this matter. The Department determined this amount based on Claimant's credible statements on December 2, 2013. Therefore, Claimant's group received a total monthly income of [REDACTED], which is reduced by a 20% earned income deduction of [REDACTED] and a standard deduction of [REDACTED], which leaves an adjusted gross income of [REDACTED]. An excess shelter deduction of [REDACTED] was subtracted from Claimant's adjusted gross income of [REDACTED] resulting in Claimant receiving [REDACTED] in net income.

A claimant with a group size of 1 has a maximum net income limit of [REDACTED]. RFT 250. Because Claimant had a certified group size of 1 and a total countable monthly income of [REDACTED], the food issuance tables indicate that the proper monthly FAP allotment is [REDACTED]. See RFT 260. The Department properly determined Claimant's monthly FAP allotment.

Claimant also requested a hearing because the Department closed his AMP case due to excess income.

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

AMP income eligibility is based on an individual's living arrangement. RFT 236. An individual living independently has a monthly income limit of [REDACTED]. RFT 236. Here, Claimant lived independently at the relevant time period. The Department determined that Claimant's total earned income was [REDACTED] for purposes of AMP, minus the 20% earned income deduction of [REDACTED], which leaves a monthly net earned income of [REDACTED]. Because Claimant's monthly net unearned income of [REDACTED] exceeds the AMP income limit, Claimant is not income eligible for AMP.

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 determined Claimant's monthly FAP allotment and closed Claimant's AMP case due to excess income.

DECISION AND ORDER

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

IT IS SO ORDERED.

/s/

C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 15, 2014

Date Mailed: January 16, 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.

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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

CAP/aca

cc:

