

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-23033
Issue No(s): 3008
Case No.: [REDACTED]
Hearing Date: March 12, 2014
County: Oakland - 03

ADMINISTRATIVE LAW JUDGE: Darryl T. 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 March 12, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED], and Eligibility Specialist/Interpreter [REDACTED].

ISSUE

Did the Department properly reduce Claimant's 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. Claimant and his spouse were a household of four that received on-going FAP benefits.
2. As part of an annual review of his case, Claimant provided copies of paycheck stubs and a W-2 form reflecting his spouse's income for 2013 and the following check dates (Exhibit 1 Pages 7 – 28):
 - a. 2013 W-2 ([REDACTED] gross pay - \$ [REDACTED])
 - b. Earnings Statements – [REDACTED]
 - i. 11/1/13 - \$ [REDACTED]
 - ii. 11/15/13 - \$ [REDACTED]
 - iii. 11/29/13 - \$ [REDACTED]

- c. Earnings Statements – [REDACTED] [REDACTED]
 - i. 10/25/13 - \$ [REDACTED]
 - ii. 11/1/13 - \$ [REDACTED]
 - iii. 11/8/13 - \$ [REDACTED]
 - iv. 11/15/13 - \$ [REDACTED]
- 3. Before Claimant's FAP was adjusted to reflect his wife's income, the group was receiving \$ [REDACTED] per month for FAP.
- 4. After Claimant's budget was adjusted to account for the reported income, the FAP was reduced to \$ [REDACTED]. See January 13, 2014 Notice of Case Action, Exhibit 1 Pages 4-5.
- 5. On January 21, 2014, Claimant requested a hearing.

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.

When the Department calculates a FAP budget it takes into account, among many other factors, the earned and unearned income the Claimant receives. Claimant reported the two most recent bi-weekly paychecks for his wife from her work for [REDACTED] of \$ [REDACTED] and \$ [REDACTED] (Totalling \$ [REDACTED] or \$ [REDACTED] weekly.) He also reported four weekly paychecks preceding the redetermination of \$ [REDACTED], \$ [REDACTED], \$ [REDACTED], and \$ [REDACTED] (Totalling \$ [REDACTED] or \$ [REDACTED] weekly.) His wife's weekly income totaled \$ [REDACTED]. The standard formula to convert a weekly income into a monthly equivalent is to multiply the weekly average by 4.3, which results in a total of \$ [REDACTED] per month. In the NCA, the Department stated Claimant's Earned Income was \$ [REDACTED] (Exhibit 1 Page 5.) Any error in this case was to Claimant's advantage.

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.

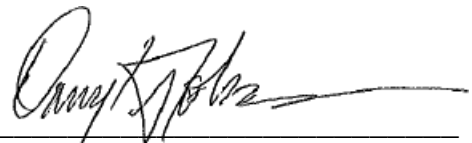
While it appears that the Department erred in its calculation of Claimant's monthly earned income, the error was in Claimant's favor because the Department used a monthly amount that was actually less than his wife's true earned income. Had the Department used the correct amount of income, they would have received lower FAP benefits after taking into account the group's monthly income and expenses. Because the Claimant has not established any negative action by the Department, the Department's action will be upheld.

Claimant testified that his wife's income has decreased since her case was reviewed. That is not an issue properly before the undersigned.

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 decreased Claimant's Food Assistance Program benefits.

DECISION AND ORDER

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



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 13, 2014

Date Mailed: March 13, 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

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

DTJ/las

cc:

