

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-25125
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: February 27, 2014
County: Macomb-20

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 MCL 400.37, and 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 three-way telephone hearing was held on February 27, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Assistance Payments Worker [REDACTED].

ISSUE

Did the Department properly close 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 was an on-going Food Assistance Program (FAP) recipient of \$1 [REDACTED] per month.
2. Claimant's benefits were based upon income she had been receiving from two jobs.
3. In November 2013 Claimant requested a review of her income based upon her reported loss of income from a job she had with [REDACTED].
4. The Claimant provided verification of her wages from [REDACTED] but did not provide verification of either her wages or her loss of employment with [REDACTED].
5. The Department calculated Claimant's income based upon the wages that had been updated from [REDACTED] and the income that was previously verified from [REDACTED].

6. In a Notice of Case Action dated January 9, 2014 (Exhibit 1 Pages 9-11), Claimant was notified that her benefits were closed because her "Net income exceeds limit. Case not eligible."
7. 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.

"Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews." BAM 105.

Per BAM 130, at page 6, says:

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

The client indicates refusal to provide a verification, **or**

The time period given has elapsed and the client has **not** made a reasonable effort to provide it.

The Claimant provided updated information regarding her wages with [REDACTED] but she did not provide updated information regarding her wages with [REDACTED]. Her reported income with [REDACTED] was a bi-weekly check dated November 1, 2013 for \$ [REDACTED] (Exhibit 1 Page 5-6) and another check dated December 10, 2013 of [REDACTED] for another bi-weekly pay period. Her last reported income from [REDACTED] were bi-weekly checks of \$ [REDACTED] on May 31 and [REDACTED] on June 14, 2013 (Exhibit 1 Page 8).

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 bi-weekly periods (two in this case) and then multiplied by 2.15. Claimant's income was [REDACTED] + \$ [REDACTED] + [REDACTED] + \$ [REDACTED] = [REDACTED]. Her average bi-weekly income therefore was \$ [REDACTED]. The Claimant's monthly income is \$ [REDACTED] (\$ [REDACTED] * 2.15 = \$ [REDACTED]).

Claimant's group size is three (Exhibit 1 Page 10). The maximum gross income for a group of three to receive FAP is [REDACTED]. See RFT 250, Column A. Because the Claimant's income exceeds the limit, she is not eligible for FAP. If Claimant can substantiate that her circumstances are changed so that her income has declined sufficiently to make her fall within the income limits, she is encouraged to obtain the necessary documentation and reapply.

Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Claimant's MA and FAP 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: February 28, 2014

Date Mailed: February 28, 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

DJT/las

cc:

