

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-25463
Issue No(s): 3001
Case No.: [REDACTED]
Hearing Date: March 4, 2014
County: DHS-SSC-West

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 March 4, 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 deny Claimant's Food Assistance Program (FAP) application based on income exceeding the program limits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On December 17, 2013, Claimant applied for FAP.
2. On January 14, 2014, a Notice was issued to Claimant indicating the FAP application was denied due to being over the income limit.
3. On January 27, 2014, 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 Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limit. The entire amount of earned and unearned countable income is budgeted. Gross countable earned income is reduced by a 20% earned income deduction. Every case is allowed the standard deduction shown in RFT 255. BEM 550. For a group size of four, the standard deduction is \$162. RFT 255. For a group size of four, the FAP net income limit is \$1,963. RFT 250. Stable and fluctuating income that is received more often than monthly is converted to a standard monthly amount. Weekly income is multiplied by 4.3. BEM 505.

In this case, the Department received five earnings statements, one of which showed no hours worked that weekly pay period, just earnings from a bonus. The four remaining earnings statements showed hours worked during each week long pay period, three of which included overtime. The earnings statements also documented overtime earnings exceeding \$10,000 in one year. (Exhibit A, pages 6-10) The Eligibility Specialist testified that the overtime was included in calculating the standard monthly income from employment.

Claimant testified that the bonus was an annual holiday bonus from the employer, which only occurs once per year. Claimant further testified that the hours worked per pay period have been cut since the time of the FAP application.

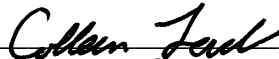
The Department properly included overtime in calculating the standard monthly income from employment because the verifications received indicated overtime occurred on a regular basis. The evidence indicates the income from the one earnings statement with just the bonus was properly excluded in calculating the standard monthly income from employment because this did not appear to be part of the regular, recurring earnings. The Department submitted sufficient evidence that Claimant's FAP group's net income, after applying the allowable deductions, was \$ [REDACTED]. Based on the verifications current at the time of the application, the FAP group's net income of \$ [REDACTED] exceeded the program limit of \$ [REDACTED] (Exhibit A, pages 6-13) The Department's determination to deny Claimant's December 17, 2013 FAP application must be upheld.

If she has not already done so, the Claimant may wish to re-apply for FAP and provide updated verification regarding the household income.

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 Claimant's FAP application based on income exceeding the net 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: March 14, 2014

Date Mailed: March 14, 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

201425463/CL

CL/hj

cc:

