

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-28123
Issue No(s): 3008
Case No.: [REDACTED]
Hearing Date: March 19, 2014
County: SSSPC WEST

ADMINISTRATIVE LAW JUDGE: Michael S. Newell

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 19, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], ES.

ISSUE

Did the Department properly deny Claimant's FAP application?

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 applied for FAP on January 21, 2014.
2. Claimant receives a gross amount of RSDI of \$ [REDACTED]
3. Claimant received approximately \$ [REDACTED] per month from family when the budget was calculated.
4. Claimant does not have a mortgage or rent and is responsible for \$ [REDACTED] in housing costs. (property taxes and home owners insurance).
5. Claimant's FAP group consists of one person.
6. On February 7, 2014, the Department denied the application due to excess income.

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.

Additionally, the Department's computer system known as "Bridges" uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554. For groups with no senior/disabled/disabled veteran (SDV) member, Bridges uses the following: (1) dependent care expense; (2) excess shelter up to the maximum in RFT 255; (3) court ordered child support and arrearages paid to non-household members. BEM 554. For groups with one or more SDV member, Bridges uses the following; see BEM 550: (1) dependent care expense; (2) excess shelter (3) court ordered child support and arrearages paid to non-household members; and (4) medical expenses for the SDV member(s) that exceed \$ [REDACTED] BEM 554.

The Department shall complete either a manually-calculated or Bridges budget to document expenses every time an expense change is reported. BEM 554. The Department must verify the responsibility to pay and the amount of certain expenses. BEM 554. The Department must document verification in the case record. BEM 554. The Department shall not budget expenses that require verification until the verification is provided. BEM 554. The Department must determine eligibility and the benefit level without an expense requiring verification if it cannot be verified. BEM 554. The Department treats subsequently provided verification from an eligible FAP group as a change. A supplement for lost benefits is issued only if the expense could not be verified within 30 days of the application and the local office was at fault. BEM 554.

BEM 550 describes income budgeting policy. When the Department budgets the amount of FAP for a group, it first determines whether there is a senior¹, disabled person² or a veteran member of that group. BEM 550. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group³ must have income below the net income

¹ A "senior" is a person at least 60 years old. BEM 550 p 1.

² A "disabled" person who receives one of the following: (1) a federal, state or local public disability retirement pension and the disability is considered permanent under the Social Security Act; (2) medicaid program which requires a disability determination by MRT or Social Security Administration; (3) Railroad Retirement **and** is eligible for Medicare or meets the Social Security disability criteria (4) a person who receives or has been certified and awaiting their initial payment for one of the following: (a) Social Security disability or blindness benefits; (b) Supplemental Security Income (SSI), based on disability or blindness, even if based on presumptive eligibility.

³ An SDV FAP group is one which has an SDV member. BEM 550 p 1.

limits. BEM 550. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550.

The Department will use only available, countable income to determine eligibility. BEM 550. It will always calculate income on a calendar month basis to determine eligibility and benefit amounts and use income from a month specified in this item for the benefit month being considered. BEM 550.

Claimants total gross income during the relevant period was \$ [REDACTED]. The Department also properly determined Claimant's monthly income after deductions to be \$ [REDACTED] which the Department terms, "net income." Claimant's Standard Deduction of \$ [REDACTED] is appropriate. RFT 255.

The Excess Shelter deduction of \$ [REDACTED] property reflected the housing cost of \$ [REDACTED] and standard utility deduction of \$ [REDACTED] minus 50% of Adjusted Gross Income. See BEM 554, 556.

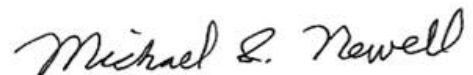
For FAP, a non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 550. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550. Reference Table (RFT) 250 determines the monthly income limits for FAP based on household group size. Here, Claimant's group size was 1. According to RFT 250, Claimant's FAP monthly net income limit is \$ [REDACTED]. Claimant's total countable monthly income of \$ [REDACTED] exceeds the limit set forth by policy.

Claimant offered unsure testimony concerning whether she routinely received \$ [REDACTED] month in assistance from family. The issue is moot. Whether the \$ [REDACTED] is counted or not, Claimant would still fall below the net income limits in BEM 550 and RFT 250.

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.

DECISION AND ORDER

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



Michael S. Newell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 28, 2014

Date Mailed: March 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

MSN/las

cc:

