

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

IN THE MATTER OF:



Reg. No.: 14-007144-RECON
Issue No.: 3007
Case No.: [REDACTED]
Hearing Date: August 19, 2014
County: Oakland-District 3

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

DECISION AND ORDER OF RECONSIDERATION

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to the Claimant's timely Request for Rehearing/Reconsideration of the Hearing Decision generated by the assigned Administrative Law Judge (ALJ) at the conclusion of the hearing conducted on August 19, 2014, and mailed on August 28, 2014, in the above-captioned matter.

The Rehearing and Reconsideration process is governed by the Michigan Administrative Code, Rule 400.919, *et seq.*, and applicable policy provisions articulated in the Bridges Administrative Manual (BAM), specifically BAM 600, which provide that a rehearing or reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program or programs that is the basis for the claimant's benefits application, and **may** be granted so long as the reasons for which the request is made comply with the policy and statutory requirements.

This matter having been reviewed, an Order Granting Reconsideration was mailed on November 25, 2014.

ISSUE

Whether the Administrative Law Judge (ALJ) erred in upholding the Department of Human Services' (Department) closure of the Food Assistance Program (FAP) benefit program due to excess assets?

FINDINGS OF FACT

Upon a review of the entire hearing record, including the recorded testimony and evidence admitted, in addition to a review of the applicable law and policy governing the issues in this matter, this Administrative Law Judge makes the following findings of fact:

1. Findings of Fact No. 1 through 4 under Registration Number 14-007144 are incorporated by reference.

2. On August 19, 2014, a hearing was held resulting in a Hearing Decision mailed on August 28, 2014, which upheld the Department's closure of FAP benefits for excess income.
3. On September 26, 2014, Claimant requested reconsideration/rehearing.
4. The Request for Rehearing/Reconsideration was GRANTED.

CONCLUSIONS OF LAW

In the instant case, Claimant requested rehearing/reconsideration asserting misapplication of policy that would impact the outcome of the original hearing decision.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Under the FAP program, the Department counts the income a client receives from an S-Corp of LLC as wages, even if the client is the owner; see Wages. BEM 501, p 4 (7/1/2014). S-Corporations and Limited Liability Companies (LLCs) are not self-employment. BEM 502, p 1 (8/1/2014).

Wages are the pay an employee receives from another individual organization or S-Corp/LLC. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. Enter an employee's regular wages paid during a vacation or illness as earned income. Enter a wage advance as earnings when the employer actually pays it. Do **not** count the money withheld to offset the advance. Enter wages held by the employer at the request of the employee. Bridges will count as earnings. However, wages held as a general practice by the employer are **not** income until actually paid, and should not be entered in Bridges until anticipated or received. BEM 501, pp 6-7 (7/1/2014).

S-Corporations and Limited Liability Companies (LLC's) are not self-employment.

Claimant contended that the income to the S-Corp cannot be counted as her income, because of the expenses the S-Corp incurs. She stated the Department must take into account the S-Corp's expenses, before it can determine what her actual income is and the Department did not do that.

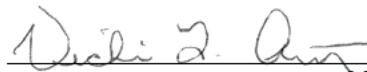
The Department explained that the policy for S-Corporations changed in January, 2014. As a result of the change, S-Corporations are no longer counted as self-employment, therefore, deductions are no longer allowed.

According to policy, under the FAP program, the Department counts the income a client receives from an S-Corp or LLC as wages, even if the client is the owner. In this case, Claimant is the owner, and listed her income for the months of February, March, and April of 2014, as \$ [REDACTED] \$ [REDACTED] and \$ [REDACTED]

As a result, the ALJ's determination which found the Department properly closed Claimant's FAP case for excess income is **AFFIRMED**.

DECISION AND ORDER

In light of the foregoing, the Hearing Decision mailed on August 28, 2014, under Registration Number 14-007144, that upheld the Department's closure of FAP benefits is **AFFIRMED**.



Vicki Armstrong
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **1/6/2015**

Date Mailed: **1/6/2015**

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NOTICE: The law provides that within 30 days of receipt of the this Decision, the Claimant may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County.

cc:

