

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

**IN THE MATTER OF:**

██████████  
██████████  
██████████

Reg. No.: 14-018107  
Issue No.: 3001  
Case No.: ██████████  
Hearing Date: January 12, 2015  
County: WAYNE-DISTRICT 17  
(GREENFIELD/JOY)

**ADMINISTRATIVE LAW JUDGE: Eric Feldman**

**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 January 12, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████; and Claimant's spouse, ██████████. Also, ██████████ was present at the hearing to interpret for Claimant and his spouse. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Case Manager.

**ISSUE**

Did the Department properly deny Claimant's Food Assistance Program (FAP) application effective November 21, 2014, due to excess income?

**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 November 21, 2014, Claimant applied for FAP benefits.
2. On November 26, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP application was denied due to the gross income exceeding the limits. See Exhibit 1, pp. 4-5.
3. On December 4, 2014, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, p. 3.

## **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 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.

### **Preliminary matters**

First, Claimant testified that he also disputed his wife's Medical Assistance (MA) benefits. However, Claimant's hearing request failed to indicate any dispute with the MA benefits. See Exhibit 1, p. 3. As such, this Administrative Law Judge (ALJ) will not address Claimant's dispute with the MA benefits for lack of jurisdiction. See BAM 600 (October 2014), pp. 4-6. Claimant can request another hearing to dispute the MA benefits. See BAM 600, pp. 4-6.

Second, on December 4, 2014, Claimant subsequently applied for FAP benefits. See Exhibit 1, p. 1. On December 17, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits were approved for December 4, 2014, ongoing. See Exhibit 1, pp. 6-8. During the hearing, Claimant testified that he only disputed his FAP denial. As such, this ALJ will not address Claimant's subsequent application. Claimant can request another hearing if he disputes the amount of his FAP allotment effective December 4, 2014. See BAM 600, pp. 4-6.

### **FAP application**

For non-Senior/Disabled/Disabled Veteran (SDV) groups who are not categorically eligible only if the income exceeds the gross income limits, the Department denies benefits. BEM 556 (July 2013), p. 3. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550 (February 2014), p. 1. The evidence presented that the FAP group size is two (Claimant and spouse) and there are no SDV members. Moreover, the evidence presented that the FAP group is not categorically eligible. See BEM 213 (July 2014), pp. 1-4. Based on this information, RFT 250 indicates that the monthly gross income (130%) limit for Claimant's group size of two is \$1,705. See RFT 250 (October 2014), p. 1.

At the hearing, the Department did not present any FAP budgets; however, the Department did present Claimant's Notice of Case Action dated November 26, 2014.

See Exhibit 1, p. 4-5. Specifically, the Notice of Case Action indicated Claimant's monthly income of \$2,665 exceeded the gross monthly income limit of \$1,705. See Exhibit 1, p. 5 and RFT 250, p. 1.

It was not disputed that Claimant received \$1,232 in Retirement, Survivors, and Disability Insurance (RSDI) income and that his spouse received \$203 in RSDI income. This resulted in total RSDI income of \$1,435 (unearned income). See BEM 503 (July 2014), p. 28. The evidence also indicated that Claimant's spouse received employment earnings (earned income).

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (July 2014), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 7. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, pp. 7-8.

The Department testified that it calculated the spouse's gross income based on the following bi-weekly pay stubs: (i) pay date on 10/3/2014, \$369.40 gross income, 30 hours worked; (ii) pay date on 10/17/2014, \$289.38 gross income, 27 hours worked; and (iii) pay date on 10/31/2014, \$267 gross income, 25 hours worked. Neither claimant nor his spouse disputed the above income calculations. In fact, Claimant's spouse testified that she was paid bi-weekly, worked an average of 15 hours a week, and earned \$10.68 an hour. Converting the spouse's biweekly pay to a standard monthly amount appeared to indicate that the approximate standard amount is \$663 (earned income). See BEM 505, pp. 7-8.

Adding both the FAP group's unearned and earned income, resulted in an approximate monthly income of \$2,098 (\$1,435 unearned income plus \$663 earned income). It should be noted that this is just an approximate amount and the Department failed to present any FAP budgets to show how it calculated Claimant's monthly income of \$2,665. See Exhibit 1, p. 5. As a matter of fact, it is unclear how the Department calculated a monthly income of \$2,665. See Exhibit 1, p. 5.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's FAP application effective November 21, 2014.

First, the local office and client or Authorized Hearing Representative (AHR) will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600, p. 34.

Both the local office and the client or AHR must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 35. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 37. In this case, the Department failed to establish how it calculated the FAP group's monthly income of \$2,665. See Exhibit 1, p. 5. During the hearing, this ALJ calculated a much lower monthly income level based on the evidence presented by the Department. It is unclear how the Department calculated a monthly income of \$2,665. See Exhibit 1, p. 5. Therefore, the Department failed to satisfy its burden of showing that Claimant's monthly income exceeded the gross income limits. See BAM 600, pp. 34-37.

Second, the Department failed to present any FAP budgets to show that it properly calculated Claimant's monthly income. For example, it appears the spouse would be eligible for the 20 percent earned income deduction; therefore, this would have affected the FAP group's monthly income calculation. See BEM 550, p. 1 and BEM 556, pp. 3-4. The Department, though, failed to provide any FAP budgets to review her income/deductions. As such, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's FAP application effective November 21, 2014. See BAM 600, pp. 34-37. The Department will re-register and redetermine Claimant's FAP eligibility effective November 21, 2014.

### **DECISION AND ORDER**


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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's FAP application effective November 21, 2014.

Accordingly, the Department's FAP decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate re-registration and re-processing of Claimant's FAP application dated November 21, 2014;
2. Begin issuing supplements to Claimant for any FAP benefits he was eligible to receive but did not from November 21, 2014; and

3. Begin notifying Claimant of its FAP decision in accordance with Department policy.



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**Eric Feldman**  
Administrative Law Judge  
for Nick Lyon, Interim Director  
Department of Human Services

Date Signed: **1/13/2015**

Date Mailed: **1/13/2015**

EJF / cl

**NOTICE OF APPEAL:** A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

CC: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]