

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-009854
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: July 13, 2015
County: WAYNE-DISTRICT 18

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on July 13, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Eligibility Specialist, and Hearing Facilitator.

ISSUE

Did the Department properly deny the Claimant's Food Assistance (FAP) Application 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. The Claimant applied for food assistance on [REDACTED] and was denied by Notice of Case Action on [REDACTED].
2. The Claimant has a group size of 4 persons and the Department determined that the Claimant's FAP group net income of \$2352 exceeded the net income limit.
3. The Department did not verify the Claimant's earned income by pay stubs, but used the information she reported on her FAP application. The Claimant reported on the application that she is paid biweekly, receives \$9.75 an hour and works 15 hours a week. The Claimant did not provide pay stubs and no verification checklist was issued.

4. At the time of the application the Claimant received SSI in the amount of \$733 and her son who lives with her was receiving RSDI in the amount of \$478 as well as a quarterly supplement of \$14. The Claimant's daughter who lives with her received \$969.82 monthly in earned income. The Claimant's son no longer receives RSDI as he has turned 18.
5. The Claimant's daughter's earned income was calculated using two check, \$428.88 and \$473.28 and she is paid biweekly. The Claimant's daughter is 20 years of age and lives with the Claimant and was included as a FAP group member.
6. The Claimant's group unearned income was \$1225 and earned income of her daughter was \$969 and was properly calculated. This income in the amount of \$2194 without including the Claimant's earned income exceeds the net income limit of \$1988.
7. In calculating the FAP group earned income the department used \$1614 for income from the Claimant and her daughter. The Department included \$645 of earned income monthly for the Claimant. The Department did not request verification regarding the Claimant's earned income. There was no interview conducted with respect to the FAP application.
8. The Claimant requested a timely hearing on [REDACTED] protesting the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, the Claimant sought review of the Department's denial of Claimant's FAP application due to Claimant's FAP group net income exceeding the net income limit. Claimant's group consists of 4 members. The Department calculated the FAP group income to be \$2352. Exhibit 1

BEM 550 (July 1, 2015), p.1

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered.

Budget the entire amount of earned and unearned countable income. Gross countable earned income is reduced by a 20 percent earned income deduction. Every case is allowed the standard deduction shown in Reference Tables Manual (RFT) 255.

The Claimant's (SSI) and her son's (RSDI) which are unearned income total \$1225 which was confirmed as correct. Exhibit 1. The Claimant's daughter's earned income was based upon two pay stubs submitted with the application and totaled \$969. An earned income deduction of 20% is taken off earned income which in this case would be \$194. Thus without including the Claimant's earned income the group income is as follows: $\$1225 + \$969 = \$2194 - \$194 = \$2000$. The net income limit for a FAP group of 4 is \$1988, thus the group income without the Claimant's income would exceed the income limit. RFT 250, (October 1, 2014). In addition, although no interview was held, the fact that the FAP group income exceeds the income limit even without Claimant's income is harmless error. BAM 115 (July, 1, 2015 p.22-23. As the undersigned indicated at the hearing that a failure of the Department to have an interview was wrong and was required, however, at the time of the hearing a calculation without the Claimant's income had not been made such that it could be determined that having an interview would have changed the outcome, clearly an interview would not have changed the outcome.

In addition, the Department properly included both the Claimant's children in her FAP group.

Children include natural, step and adopted children.

Parents and their children **under** 22 years of age who live together **must** be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM 212, (July 1, 2015, p.1.

The Department used a common source of verification for income, which in this case was client's statement on the application. The Claimant clearly stated that she worked 15 hours a week at \$9.75 per hour. There was no qualification or statement by the Claimant that the income she earns fluctuates. The Claimant did not provide pay stubs, but testified at the hearing that she does not always work 15 hours a week and that her income fluctuates. The Department used the income as reported. While verification of the Claimant's earned income in this instance might have yielded a more accurate

calculation, the fact that the group is over income, without including the Claimant's income, the failure to hold an interview and seek verification was harmless error.

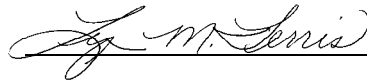
It is noteworthy that, at the hearing, the Claimant had just learned that her son no longer receives RSDI and thus his unearned income will no longer be included in the FAP group's income. In addition, the Claimant's income, if verified on a new application by actual pay stubs may make the group eligible. The Claimant is urged to reapply for FAP.

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 the Claimant's FAP application due to excess income.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/23/2015**

Date Mailed: **7/23/2015**

LMF / hw

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

