

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-011121
Issue No.: 2000, 3001
Case No.: [REDACTED]
Hearing Date: August 17, 2015
County: WAYNE-DISTRICT 57

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 August 17, 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], FIS, and [REDACTED], FIM.

ISSUE

Did the Department properly close the Claimant's Food Assistance (FAP)?

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 was an ongoing FAP recipient. On [REDACTED], the Department issued a Notice of Case Action closing the Claimant's FAP case due to Claimant's net income exceeding the income limit. Exhibit 1
2. The Claimant also requested a hearing on her medical deductible in the same hearing request for her FAP case closure, however, at the hearing the Claimant agreed that that issue had been resolved at another hearing already held.
3. The Claimant's earnings fluctuate and for May 2015 were \$ \$803.56 ([REDACTED]) and \$1258.40 ([REDACTED]). Exhibit 2
4. The Claimant requested a hearing on [REDACTED], protesting the closure of her FAP case.

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 Department closed the Claimant's FAP benefit case effective August 1, 2015 due to excess income finding that Claimant's income was \$2,705. Exhibit 1. The Claimant's pay stubs for May 2015 were used by the Department at the time it closed the FAP case. The pay stubs in the amount of \$803.56 and \$1258.40 totaled \$2061.96. Department policy requires that this sum be divided by 2 to determine average biweekly income, which equals \$1030.98. This average biweekly income is then multiplied by 2.15 to get the gross monthly income, which equals \$2216.50. Based upon this calculation the Department's determination of gross income of \$2705 is incorrect. BEM 505, (July 1, 2015) p. 5-6.

In recalculating the FAP benefits the Department must also consider the policy regarding fluctuating income found in BEM 505 because one pay fluctuated and was higher by \$450 than the other pay received in May 2015. Policy requires the following under these circumstances:

Current and Future Months

Prospect income using a best estimate of income expected to be received during the month (or already received). Seek input from the client to establish an estimate, whenever possible.

To prospect income, you will need to know:

- The type of income and the frequency it is received (such as, weekly).
- The day(s) of the week paid.
- The date(s) paid.

- The gross income amount received or expected to be received on each pay date.

Case Management Tip

Prospective budgeting requires knowledge of an individual's current, past and anticipated future circumstances. Asking the client questions, such as those that follow, will help establish the best estimate of future income.

- Do you have multiple jobs?
- When do you expect to receive a raise in pay?
- Do your work hours usually increase or decrease at a certain time of year?
- Have you recently received more or fewer hours than usual due to an unusual situation at work? BEM 505, p. 2-3

Discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. Document which pay is being discarded and why. For example, the client worked overtime for one week and it is not expected to recur. BEM 505, p. 5

The Claimant's request for hearing regarding her Medical Assistance deductible has already been decided at a prior hearing and therefore there is nothing remaining to be decided, and therefore this issue is dismissed.

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 did not act in accordance with Department policy when it closed the Claimant's FAP case due to excess income.

DECISION AND ORDER

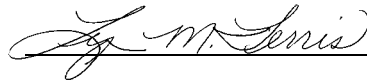
Accordingly, the Department's decision is

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. The Department shall reinstate the Claimant's FAP case and shall redetermine the Claimant's eligibility using the correct income amounts contained in the Finding of Facts. When recalculating the Claimant's income the Department shall consider the fact that the Claimant's income is fluctuating.
2. The Department shall issue a FAP supplement to the Claimant if the Claimant is otherwise eligible for a supplement in accordance with Department policy.

The Claimant's request for hearing regarding her Medical Assistance Deductible has already been decided at a prior hearing and therefore there is nothing remaining to be decided and therefore this issue contained in her [REDACTED] hearing request is **DISMISSED**.



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

Date Signed: **8/18/2015**

Date Mailed: **8/18/2015**

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:

A large black rectangular redaction box covers the names and contact information of the recipients listed under the 'cc:' field.