

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-018141
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: November 24, 2015
County: KALAMAZOO

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on November 24, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Claimant's eligibility for the Food Assistance Program (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 is an ongoing Food Assistance Program (FAP) recipient as a group of two.
2. The Claimant receives monthly earned income from employment in the gross monthly amount of \$[REDACTED].
3. As of August 1, 2015, the Department reduced the Claimant's allotment of Food Assistance Program (FAP) benefits to \$[REDACTED].
4. On September 24, 2015, the Department received the Claimant's request for a hearing protesting the amount of Food Assistance Program (FAP) benefits she is receiving.

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).

Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2015), pp 3-4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2015), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

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.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment

for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2015).

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (July 1, 2014), pp 7-8.

The Claimant was an ongoing FAP recipient as a group of two when the Department redetermined her eligibility for ongoing benefits based on the information reported by the Claimant to the Department. The Claimant receives monthly earned income from employment in the gross monthly amount of \$[REDACTED]. This amount was determined by taking the average of the gross earnings from the three bi-weekly pay periods verified by the Claimant (\$[REDACTED], \$[REDACTED], \$[REDACTED]) and converting this amount to a monthly income by multiplying by the 2.15 conversion factor as required by BEM 505. The Claimant's adjusted gross income of \$[REDACTED] was determined by reducing her total monthly income by the \$[REDACTED] standard deduction. The Claimant is entitled to a \$[REDACTED] excess shelter deduction, which was determined by adding her \$[REDACTED] housing expenses to the \$[REDACTED] standard heat and utility standard deduction, then subtracting 50% of her adjusted gross income.

The Claimant's net income of \$[REDACTED] was determined by subtracting her excess shelter deduction from her adjusted gross income. A group of two with a net income of \$[REDACTED] is entitled to a \$[REDACTED] monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2014).

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. Department of Human Services Bridges Assistance Manual (BAM) 105 (January 1, 2015), pp 1-20.

The Claimant had a duty to report a change of the amount of earned income she receives to the Department within ten days of becoming aware of this change of circumstances affecting eligibility for benefits. BAM 105, pp 10-11. The Department would have been obligated to act on this reported information within 10 days of becoming aware of the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 220 (October 1, 2015), pp 6-7. Timely notice of the resulting negative action is effective at least 12 calendar days following the date of the Department's action. BAM 220, p 12.

The Claimant reported her earned income to the Department in response to a Semi-Annual Contact Report on July 23, 2015, and the Department applied this income to the next benefit period.

The Claimant argued that the Department failed to give her written notice of the reduction of FAP benefits as required by Department policy.

This Administrative Law Judge finds that the Department's failure to provide the Claimant with written notice of the reduction to her benefits was harmless error because she did become aware of the reduction soon enough to request a timely hearing. The Department established that it is providing the Claimant with the benefits she is eligible for.

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 determined the Claimant's eligibility for Food Assistance Program (FAP) benefits as of August 1, 2015.

DECISION AND ORDER

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



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **11/30/2015**

Date Mailed: **11/30/2015**

KS/■

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:

