

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

IN THE MATTER OF:

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Reg. No.: 15-000365
Issue No.: 3001
Case No.: ██████████
Hearing Date: February 11, 2015
County: Oakland-District 3

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 February 11, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her daughter, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) benefits?

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 December 1, 2014, Claimant submitted an application for FAP benefits for her ██████████ old daughter.
2. On December 18, 2014, the Department sent Claimant a Notice of Case Action informing her that the application was denied due to excess income. (Exhibit 1, pp. 10-11).
3. On January 5, 2015, Claimant requested a hearing disputing the Department's actions.

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.

As a preliminary matter, although Claimant's request for hearing and attached documents reference other programs administered by the Department, Claimant confirmed that she was only disputing the denial of the FAP application she submitted on behalf of her daughter.

At the hearing, the Department testified that Claimant's FAP application was denied on the basis that her group's income exceeded the limit for FAP purposes. (Exhibit 1, pp.10-11). The Department testified that based on the information provided, Claimant's eligibility for FAP was determined based on a group size of three. The Department testified that Claimant's two daughters, [REDACTED] were mandatory group members and that Claimant's boyfriend, [REDACTED] was also a mandatory group member, as he shared a child in common with Claimant and they all lived in the same home. Claimant asserted that she was only applying for benefits for her [REDACTED] old disabled daughter and that the other household members should not be included in the FAP group, as they do not purchase and prepare food together and do not need assistance.

Food assistance group composition is established by determining who lives together, the relationships of the people who live together, whether the people living together purchase and prepare food together or separately and whether the person resides in an eligible living situation. BEM 212 (July 2014), p. 1. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the children have their own spouse or child who lives with the group and regardless of whether they purchase and prepare food together. BEM 212, p. 1. Claimant confirmed that she is the mother of [REDACTED], and [REDACTED], and that her boyfriend, [REDACTED] is the father of [REDACTED]. Thus, the Department properly determined that Claimant's two daughters and Claimant's boyfriend were mandatory group members at the time the application was submitted.

The Department stated that Claimant was ineligible for FAP based on her status as a student and that she was not included in the FAP group. A person who is in student status and does not meet the criteria in BEM 245 is a non-group member and is not

eligible to receive FAP benefits. BEM 212 (July 2014), p. 9. A person enrolled in a post-secondary education program may be in student status and eligible for FAP assistance, provided that certain eligibility criteria are met. BEM 245 (July 2014), pp.3-5.

Claimant confirmed that she was enrolled half time or more as a university student. Claimant stated that she is not physically or mentally unfit for employment and that she does not participate in an on the job training program or in a work study program. Claimant verified that she does provide more than half of the physical care of a group member under the age of six. BEM 245, pp.2-5.

Based on the above information and additional testimony provided at the hearing by both Claimant and the Department, Claimant does not meet any of the criteria found in BEM 245 and is therefore not eligible to receive FAP benefits. BEM 245, pp.2-4. Therefore, the Department properly removed Claimant from the FAP group and determined that Claimant's FAP group size was three.

At the hearing, the FAP EDG Net Income Results budget was reviewed to determine if the Department properly concluded that Claimant's group was ineligible for FAP benefits based on excess income. (Exhibit 1, pp. 8-9).

In calculating a client's FAP benefits, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (July 2014), pp. 1 – 4. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2014), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 5. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received twice monthly is converted to a standard amount by adding each amount together to get a total monthly income amount. BEM 505, pp. 7-8.

The Department considers the gross amount of money earned from Supplemental Security Income (SSI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2014), pp. 31-32. State SSI Payments (SSP) are issued quarterly in the amount of \$42 and the payments are issued in the final month of each quarter; see BEM 660. The Department will count the monthly SSP benefit amount (\$14) as unearned income. BEM 503, p.33; see RFT 248.

A review of the budget shows that the Department concluded that Claimant's group had earned income of \$3082, which it testified came from Claimant's boyfriend's employment. In calculating Claimant's group's earned income, the Department considered twice monthly pay of \$1541, which the Department indicated was based on a client statement. Claimant disputed the amount relied on by the Department and

stated that she never provided the Department with a statement concerning her boyfriend's income and that she does not know what his income is. The Department later testified that the income amounts were retrieved from the Work Number, however, documentation in support of the Department's testimony was not provided for review. Thus, the Department failed to establish that it properly calculated the group's earned income.

The budget shows unearned income in the amount of \$14, which the Department testified was from a monthly SSP benefit for Claimant's daughter, which Claimant confirmed was correct. The Department testified that Claimant's daughter also receives \$733 in monthly SSI benefits and although Claimant confirmed that her daughter receives this amount in SSI benefits, the Department failed to include the SSI benefit in the calculation of unearned income on the FAP budget provided. Therefore, the Department failed to establish that it properly calculated the group's unearned income.

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 although the Department properly determined that Claimant's group size for FAP purposes was three people, because of the errors in the calculation of Claimant's group's earned and unearned income, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the FAP application based on 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. Register and process Claimant's December 1, 2014, application for FAP benefits;
2. Issue supplements to Claimant for any FAP benefits the group was entitled to receive but did not from December 1, 2014, in accordance with Department policy; and
3. Notify Claimant in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/19/2015**

Date Mailed: **2/19/2015**

ZB / tlf

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]