

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-005536
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: May 20, 2015
County: Oakland-District 2

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 May 20, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED], Eligibility Specialist, and [REDACTED], Assistance Payments Supervisor.

ISSUE

Did the Department of Health and Human Services (Department) properly deny the Claimant's application for assistance?

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 February 17, 2015, the Department received the Claimant's application for Food Assistance Program (FAP) benefits.
2. The Claimant provided the Department with copies of paycheck stubs showing that she received earned income from employment in the gross weekly amounts of \$ [REDACTED] on February 20, 2015, \$ [REDACTED] on February 27, 2015, and \$ [REDACTED] on March 6, 2015.
3. On March 13, 2015, the Department notified the Claimant that it had denied her application for FAP benefits based on her income.
4. On March 30, 2015, the Department received the Claimant's request for a hearing protesting the denial of her FAP application.

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.

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 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, 2014).

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 6-7.

On February 17, 2015, the Department received the Claimant's application for FAP benefits as a group of three. The Claimant provided the Department with copies of paycheck stubs showing that she received earned income from employment in the gross weekly amounts of \$ [REDACTED] on February 20, 2015, \$ [REDACTED] on February 27, 2015, and \$ [REDACTED] on March 6, 2015. These three weekly paychecks can be applied to determine a prospective monthly income of \$ [REDACTED] when the average of amounts is multiplied by the 4.3 multiplier as directed by BEM 505. The Claimant's adjusted gross income of \$ [REDACTED] is determined by reducing earned income by a 20% earned income deduction and the standard \$ [REDACTED] deduction, then adding her son's monthly Supplemental Security Income (SSI) benefits. The Claimant is entitled to an excess shelter deduction of \$ [REDACTED] which is determined by adding her monthly \$ [REDACTED] rent expense to the \$ [REDACTED] standard heat and utility standard deduction, then subtracting 50% of her adjusted gross income.

The Claimant's net income of \$ [REDACTED] is determined by subtracting her excess shelter deduction from her adjusted gross income. A group of three with a net income of \$ [REDACTED] is not eligible for FAP benefits.

The Claimant argued that it was improper for the Department to apply her overtime towards her eligibility determination because she does not always work overtime.

Overtime pay is countable income under Department policy and the fact that the Claimant is not guaranteed to work overtime does not permit the Department to exclude the overtime pay from its eligibility determination. The Department is required to take an average of income received by the Department to account for fluctuations in paychecks. The Department did not make an eligibility determination by a single paycheck but takes the average of gross income amounts over a range of paychecks. The fact that the Claimant received a paycheck that was higher than the average paycheck does not require the Department to exclude it.

The evidence on the record does not indicate that there were any fluctuations in the Claimant's paychecks for any reason other than the number of hours worked by the Claimant. This Administrative Law Judge finds that there were no unusual payments or income amounts that the Department could have reasonably determined would not continue into the future.

The Claimant argued that the Department compared her paycheck stubs against income recorded electronically in the Work Number database and that these figures do not accurately indicate the number of overtime hours that she worked.

The Department's eligibility determination is based on gross income and not the number of hours worked. This Administrative Law Judge finds that regardless of the number of hours reported by Work Number, that the gross income amounts do appear to be accurate.

Regardless of these discrepancies in numbers of hours worked, the paycheck stubs submitted by the Claimant support a finding that the Claimant's group of three is not eligible for FAP benefits.

The Department re-checked its eligibility determination using March income figures and again found the Claimant to have excess income to receive FAP benefits. This second eligibility determination was not required by policy, but actually confirms that the Claimant is not eligible for benefits based on her current circumstances. Any change in circumstances in the future may change her eligibility to receive 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 determined that the Claimant is not eligible for the Food Assistance Program (FAP) based on excess income.

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: **5/26/2015**

Date Mailed: **5/26/2015**

KS/las

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:

