

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

IN THE MATTER OF:

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Reg. No.: 15-007081
Issue No.: 3001
Case No.: ██████████
Hearing Date: July 27, 2015
County: Wayne-District 35

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, an in-person hearing was held on July 27, 2015, from Redford, Michigan. Participants on behalf of Claimant included ██████████, Claimant's mother and authorized hearing representative (AHR). Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator, and ██████████, Hearing Facilitator.

ISSUE

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

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant, a ██████████ individual, applied for FAP benefits on February 8, 2015, for herself and her minor brother indicating that she lived on ██████████ and her mailing address was on ██████████ (Exhibit C).
2. Claimant's mother lives on ██████████.
3. Claimant's application was approved.
4. On February 13, 2015, the Department sent Claimant a Verification Checklist (VCL) requesting, in part, verification of her residence by February 13, 2015, (Exhibit D).

5. On February 25, 2015, Claimant submitted a [REDACTED] bill showing her address as [REDACTED] and a "Property Inspection Notice" identifying Claimant as the tenant and [REDACTED] as the property address (Exhibits E and F).
6. On April 14, 2015, the Department sent Claimant a Notice of Case Action notifying her that her FAP case was closing effective May 1, 2015, because her gross income exceeded the limit (Exhibit I).
7. On April 30, 2015, Claimant filed a request for hearing disputing the Department's decision.

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.

The April 14, 2015, Notice of Case Action notified Claimant that her FAP case was closing effective May 1, 2015, because her gross income exceeded the limit. At the hearing, the Department explained that it concluded that Claimant lived with her mother, the AHR in this case, at the [REDACTED] address. Because Claimant was under age [REDACTED] at the time her case was processed, if she was living with the AHR/her mother, the AHR would be a mandatory FAP group member and her income and assets would be considered in determining Claimant's FAP eligibility. BEM 212 (July 2014), p. 1. The Department contended that, once the AHR's income was considered, Claimant was not income eligible for FAP benefits.

At the hearing, the AHR acknowledged that, if her income was considered, Claimant would not be income-eligible for FAP. However, the AHR argued that she and Claimant did not live in the same home, that she lived on [REDACTED] and Claimant at [REDACTED]. In the February 8, 2015, application, Claimant indicated that she lived on [REDACTED] but used the [REDACTED] address, the AHR's address, as her mailing address. The AHR explained that she allowed Claimant to use her address as Claimant's mailing address because Claimant had had issues with the other resident at the [REDACTED] property accessing her mail.

In the May 7, 2015, VCL, the Department requested that Claimant verify her residential address by providing proof in the form of one of the following: driver's license, other ID with name and address, lease/mortgage agreement, rent receipt, utility bill, or collateral contact. See also BEM 220 (July 2014), p. 8 (identifying the same sources to verify address). In response, Claimant provided a current [REDACTED] energy bill listing Claimant as the responsible party and the address as [REDACTED] address. A utility bill is expressly identified in the VCL as an acceptable form of verification to establish Claimant's residential address. Based on this evidence, consistent with the proofs requested by the Department, Claimant established that she resided at [REDACTED]. At the hearing, the AHR also provided an October 21, 2014 lease for the [REDACTED] address listing Claimant as the tenant that she claimed was submitted with the application, as well as in response to the VCL (Exhibit 1). Although the Department denied receiving the lease, it further supports the evidence from the utility bill showing that Claimant resided at [REDACTED]. It is further noted that Claimant also requested State Emergency Relief (SER) assistance in connection with the [REDACTED] property in her February 2015 FAP application, which also supports the AHR's position that Claimant resided at the [REDACTED] property.

The Department argued that it relied on a Shelter Verification form completed on October 22, 2014, by the office manager at [REDACTED] that listed a move-in date of June 7, 2013, and identified the occupants of the unit at the [REDACTED] address at issue as the AHR (identified as "head"), Claimant (identified as "co-head"), and the AHR's minor son (identified as "dependent") (Exhibit G) as well as a 2014 front-end eligibility (FEE) investigation that concluded that Claimant lived with the AHR at the [REDACTED] address (Exhibit H). However, this evidence, while possibly relevant to establish Claimant's residence in 2014, is not relevant with respect to her residence in February 2015, when Claimant reapplied for benefits.

Based on the evidence presented, Claimant established that the [REDACTED] address was her residence. Because the Department's evidence is not sufficient to establish that Claimant resided with the AHR, the Department did not act in accordance with Department policy when it added the AHR as a mandatory group member to Claimant's case and included the AHR's income in calculating Claimant's FAP eligibility.

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 Claimant's FAP case for excess income.

It is noted that there was testimony at the hearing that the AHR's minor child, Claimant's brother, was not longer living with Claimant at the time of case closure. Such change in circumstances must be considered in determining ongoing FAP benefit allotments.

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. Reinstate Claimant's FAP case effective May 1, 2015;
2. Recalculate Claimant's FAP benefits for May 1, 2015, to exclude her brother from her FAP group; and
3. Issue supplements to Claimant for FAP benefits she was eligible to receive but did not from May 1, 2015, ongoing.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/03/2015**

Date Mailed: **8/03/2015**

ACE / 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 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:

[REDACTED]