

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-013838
Issue No.: 3001, 3008
Case No.: [REDACTED]
Hearing Date: September 16, 2015
County: OAKLAND-DISTRICT 4
(NORTH SAGINAW)

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 September 16, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. [REDACTED] represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly close the Claimant's 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. The Claimant was an ongoing Food Assistance Program (FAP) recipient.
2. On July 13, 2015, the Department notified the Claimant that it would close her Food Assistance Program (FAP) benefits due to excess income.
3. On July 23, 2015, the Department received the Claimant's request for a hearing protesting the closure of her Food Assistance Program (FAP) benefits.

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.

The Claimant was an ongoing FAP recipient when the Department discovered that all income being received by members of her benefit group was not being used to determine her eligibility for benefits.

The Department determined that the Claimant was receiving earned income from employment in the gross monthly amount of \$ [REDACTED]. The Department determined that another member of the Claimant's benefit group was receiving earned income from employment in the gross monthly amount of \$ [REDACTED].

The Claimant provided paycheck stubs for July of 2015, that show she received two bi-weekly paychecks in the gross amounts of \$ [REDACTED], and \$ [REDACTED]. When the average of these two amounts is multiplied by the 2.15 conversion factor, this produces a monthly income of \$ [REDACTED]. The Claimant provided paycheck stubs for another group member for [REDACTED], that show he received weekly paychecks in the gross amounts of \$ [REDACTED], \$ [REDACTED], \$ [REDACTED], and \$ [REDACTED]. When the average of these four amounts is multiplied by the 4.3 conversion factor, this produces a monthly income of \$ [REDACTED].

A group of two with a gross monthly income of \$ [REDACTED] is not eligible to receive FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2014), p 1.

The Department used different paycheck stubs to determine the group's gross monthly income, but the paycheck stubs for a 30 day period ending in July of 2015, support a finding that the Claimant's benefit group is ineligible to receive FAP benefits as of August 1, 2015. The Claimant did not dispute that the paycheck stubs in the Department's exhibits were accurate.

Whether the Claimant was eligible for benefits before August 1, 2015, is an issue that will not be settled as a result of this hearing because it is not related to the Claimant's hearing request.

The Claimant argued that since July of 2015, the group's income as decreased significantly. While this decrease of income that occurred after the Claimant submitted her request for a hearing may affect their future eligibility for food assistance, it is not relevant to the issue of whether the close of FAP benefits effective August 1, 2015, was a proper application of Department policy.

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 closed the Claimant's Food Assistance Program (FAP) 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: **9/17/2015**

Date Mailed: **9/17/2015**

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 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:

