

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201422832  
Issue No.: 3001  
Case No.: [REDACTED]  
Hearing Date: February 12, 2014  
County: Bay County DHS

**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, a telephone hearing was held on February 12, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED].

**ISSUE**

Whether the Department of Human Services (Department) properly determined the countable income attributable to the Claimant's Food Assistance Program (FAP) benefit group?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon 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.
2. On December 27, 2013, the Claimant returned his redetermination papers so that the Department could determine his eligibility to receive continuing benefits.
3. The Claimant is the primary caretaker of his son and his son is a Supplemental Security Income (SSI) recipient.
4. On January 7, 2014, the Department determined that the Claimant was eligible for a monthly allotment of Food Assistance Program (FAP) benefits in the amount of \$ [REDACTED].
5. The Department received the Claimant's request for a hearing on January 13, 2014, protesting the amount of his Food Assistance Program (FAP) benefits.

**CONCLUSIONS OF LAW**

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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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

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, 2013).

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons reside in an eligible living situation. Parents and their children under 22 years of age who live together must be in the same group. Department of Human Services Bridges Eligibility Manual (BEM) 212 (November 1, 2012), p 1.

In this case, the Claimant is an ongoing Food Assistance Program (FAP) recipient. On December 27, 2013, the Claimant returned his redetermination papers so that the Department could determine his eligibility to receive continued benefits.

The Claimant is the primary caretaker of his son and his son is a Supplemental Security Income (SSI) recipient. On January 7, 2014, the Department determined that the Claimant was eligible for a monthly allotment of Food Assistance Program (FAP) benefits in the amount of \$ [REDACTED]. This was a reduction from the Claimant's previous benefit amount, and was the result of adding the son's unearned income to the benefit group's total income.

The Claimant did not dispute the amount of income that he and his son receive, but argued that since he does not have access to the son's Supplemental Security Income (SSI) benefits that these funds should not be used to determine his eligibility for the Food Assistance Program (FAP).

The son's mother is the payee for his Supplemental Security Income (SSI) benefits and neither the Claimant nor his son have access to these funds.

However, the Department included these funds in its eligibility determination for the Claimant because these funds belong to the son, regardless of who receives them.

Whether the son's Supplemental Security Income (SSI) benefits are being properly distributed is not within the jurisdiction of this Administrative Law Judge to decide as this is a determination to be made by the Social Security Administration.

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Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department was acting in accordance with policy when it determined the composition of the Claimant's Food Assistance Program (FAP) benefit group, and determined the total countable income attributable to this benefit group. The Department therefore properly applied this income when it determined the Claimant's Food Assistance Program (FAP) benefit amount.

### **DECISION AND ORDER**

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 countable income attributable to the Claimant's Food Assistance Program (FAP) benefit group.

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

\_\_\_\_\_  
Kevin



Scully  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: February 18, 2014

Date Mailed: February 18, 2014

**NOTICE OF APPEAL:** The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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;

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- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant 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 the hearing decision is mailed.

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 48909-07322

KS/hj

cc:

